

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6419

MICHAEL BROADNAX,

Petitioner - Appellant,

v.

VIRGINIA BEACH CORRECTIONAL CENTER; CIRCUIT COURT OF THE CITY
OF VIRGINIA BEACH,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Richmond. M. Hannah Lauck, Magistrate
Judge. (3:07-cv-00016-MHL)

Submitted: September 16, 2008 Decided: September 19, 2008

Before MOTZ, TRAXLER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael Broadnax, Appellant Pro Se. Thomas Drummond Bagwell,
Assistant Attorney General, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Broadnax seeks to appeal the magistrate judge's order dismissing without prejudice his 28 U.S.C. § 2254 (2000) petition.* The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Broadnax has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

*The parties consented to referral to a magistrate judge for final disposition under 28 U.S.C. § 636(c) (2000).