

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7245

CHRISTOPHER S. HENRY,

Petitioner - Appellant,

v.

GENE M. JOHNSON, Mr., Director,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. M. Hannah Lauck, Magistrate Judge. (3:07-cv-00583-MHL)

Submitted: November 20, 2008

Decided: December 1, 2008

Before MOTZ and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Christopher S. Henry, Appellant Pro Se. Leah Ann Darron, Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Christopher S. Henry seeks to appeal the magistrate judge's order denying relief on 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 magistrate judge is debatable or wrong and that any dispositive procedural ruling by the magistrate judge 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 Henry 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

* This case was decided by the magistrate judge upon consent of the parties under 28 U.S.C. § 636(c) (2000) and Fed. R. Civ. P. 73.

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED