

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6511

CHARLES BRANDON PARKS,

Petitioner - Appellant,

v.

SWVRJA SUPERINTENDENT; ATTORNEY GENERAL OF THE STATE OF
VIRGINIA; BOB MCDONNELL,

Respondents - Appellees.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Samuel G. Wilson, District
Judge. (7:10-cv-00110-sgw-mfu)

Submitted: September 28, 2010

Decided: October 4, 2010

Before WILKINSON, SHEDD, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Charles Brandon Parks, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles Brandon Parks seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2254 (2006) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. See 28 U.S.C. § 2253(c)(1) (2006). 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) (2006). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85. We have independently reviewed the record and conclude that Parks has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Parks' motion to appoint counsel and 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