

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6752

CHAUNCEY LAURENT WALKER,

Petitioner - Appellant,

v.

GENE M. JOHNSON, Director of the Virginia Department of
Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Rebecca Beach Smith, District
Judge. (2:10-cv-00548-RBS-DEM)

Submitted: September 29, 2011

Decided: October 5, 2011

Before KING, GREGORY, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Chauncey Laurent Walker, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Chauncey Laurent Walker seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2254 (2006) petition as untimely. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (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 Walker has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Walker's motion for transcripts at government expense and his request for the appointment of counsel. 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