

ON REHEARING

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6977

RASHI'D QAWI' AL-AMI'N,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director of the Virginia Department of
Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Raymond A. Jackson, District
Judge. (2:10-cv-00381-RAJ-TEM)

Submitted: January 30, 2012 Decided: February 10, 2012

Before GREGORY, SHEDD, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Rashi'd Qawi' Al-Ami'n, Appellant Pro Se. Richard Carson
Vorhis, Senior Assistant Attorney General, Richmond, Virginia,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rashi'd Qawi' Al-Ami'n petitions for panel and en banc rehearing of his appeal. For reasons appearing to the court, we grant panel rehearing and vacate our initial opinion. Al-Ami'n's petition for en banc rehearing is denied.

Al-Ami'n seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2254 (2006) petition. The district court's 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 Al-Ami'n 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