

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-7615

JOHN E. KEENEY, JR.,

Petitioner - Appellant,

v.

DAVID BALLARD, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Southern
District of West Virginia, at Charleston. Thomas E. Johnston,
District Judge. (2:10-cv-00903)

Submitted: April 26, 2012

Decided: April 30, 2012

Before GREGORY, AGEE, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

John E. Keeney, Jr., Appellant Pro Se. Robert David Goldberg,
Assistant Attorney General, Charleston, West Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John E. Keeney, Jr., 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 and has filed a motion for a certificate of appealability. 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 Keeney has not made the requisite showing. Accordingly, we deny Keeney's motion for 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