

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6415

THOMAS STEPHANOS VISIKIDES,

Petitioner - Appellant,

v.

DIRECTOR, DEPARTMENT OF CORRECTIONS,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (1:11-cv-01234-JCC-TCB)

Submitted: July 20, 2012

Decided: August 16, 2012

Before WILKINSON, DIAZ, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Thomas Stephanos Visikides, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Stephanos Visikides seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2006) petition. 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 Visikides has not made the requisite showing. Accordingly,

* We take judicial notice of Visikides's response to the district court's November 15, 2011 order, which was docketed inadvertently in another of Visikides's federal habeas actions. See United States v. White, 620 F.3d 401, 415 n.14 (4th Cir. 2010).

although we grant Visikides's motion to amend his informal brief, we deny a certificate of appealability, deny leave to proceed in forma pauperis, 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