

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 14-6571**

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BENNY W. MCCROSKEY,

Petitioner - Appellant,

v.

HAROLD CLARKE, Director of the D.O.C.,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, District Judge. (2:13-cv-00168-MSD-LRL)

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Submitted: August 28, 2014

Decided: September 4, 2014

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Before SHEDD and FLOYD, Circuit Judges, and DAVIS, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Benny W. McCroskey, Appellant Pro Se. Eugene Paul Murphy, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Benny W. McCroskey 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 (2012) 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) (2012). 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) (2012). 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 McCroskey has not made the requisite showing. Accordingly, we grant McCroskey's motion to amend his informal brief, but deny his motions for appointment of counsel, for an evidentiary hearing, and to compel court records. 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 this court and argument would not aid the decisional process.

DISMISSED