

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7859

STEVEN BRISTOW,

Petitioner - Appellant,

versus

DAVID A. BRAXTON, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (CA-02-1194-AM)

Submitted: January 16, 2003

Decided: January 27, 2003

Before WILLIAMS, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Steven Bristow, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Steven Bristow, a Virginia inmate, seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2000) petition as untimely. An appeal may not be taken from the final order in a habeas corpus proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). When, as here, a district court dismisses a § 2254 petition solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right,' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 122 S. Ct. 318 (2001).

We have reviewed the record and conclude for the reasons stated by the district court that Bristow has not made the requisite showing. See Bristow v. Braxton, No. CA-02-1194-AM (E.D. Va., filed Oct. 22, 2002 & entered Oct. 23, 2002). Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, deny Bristow's motion to vacate the judgment of conviction, 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