

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 02-7926**

---

NICHOLAS WARNER JONES,

Plaintiff - Appellant,

versus

WARDEN; M. M. WILLIAMS, the Chairman of the  
Maryland Parole Commission; JANE DOE, Parole  
Commissioner,

Defendants - Appellees.

---

Appeal from the United States District Court for the District of  
Maryland, at Baltimore. Benson Everett Legg, Chief District Judge.  
(CA-02-3622-L)

---

Submitted: February 20, 2003

Decided: February 27, 2003

---

Before LUTTIG, MOTZ, and GREGORY, Circuit Judges.

---

Dismissed by unpublished per curiam opinion.

---

Nicholas Warner Jones, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Nicholas Warner Jones, a Maryland prisoner, seeks to appeal the district court's order construing his 42 U.S.C. § 1983 (2000) action as a petition filed under 28 U.S.C. § 2241 (2000), and dismissing it without prejudice for failure to exhaust state remedies. 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 § 2241 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, 534 U.S. 941 (2001).

We have reviewed the record and conclude for the reasons stated by the district court that Jones has not made the requisite showing. See Jones v. Warden, No. CA-02-3622-L (D. Md. filed Dec. 6, 2002; entered Dec. 10, 2002). 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