

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6505

JERRY GLENN JOSHUA,

Petitioner - Appellant,

versus

FEDERAL COMMONWEALTH OF VIRGINIA,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, District Judge. (CA-03-159-2)

Submitted: May 15, 2003

Decided: May 29, 2003

Before LUTTIG and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Jerry Glenn Joshua, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jerry Glenn Joshua seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C. § 2254 (2000) without prejudice because he is in federal, not state, custody. We have independently reviewed the record and conclude that Joshua has not made a substantial showing of the denial of a constitutional right. See Miller-El v. Cockrell, 123 S. Ct. 1029 (2003). Accordingly, we deny a certificate of appealability and dismiss the appeal. See 28 U.S.C. § 2253(c) (2000).^{*} 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

^{*} Because no amendment to Joshua's petition could cure the deficiency for which it was dismissed, the dismissal without prejudice is a final, appealable order. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993).