

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6530**

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ROYALE LEE STEWART,

Petitioner - Appellant,

versus

RONALD J. ANGELONE,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry Coke Morgan, Jr., District Judge. (CA-02-335-2)

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Submitted: August 28, 2003

Decided: October 14, 2003

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Before TRAXLER and SHEDD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Royale Lee Stewart, Appellant Pro Se. Michael Thomas Judge, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Royale Lee Stewart seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken to this court from the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). As to claims dismissed by a district court 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. 2001) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). We have independently reviewed the record and conclude that Stewart has not satisfied either standard. See Miller-El v. Cockrell, 537 U.S. 322 (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

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\* To the extent Stewart seeks to raise for the first time on appeal issues not properly presented to the district court, we find they are waived. Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993).