

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6703**

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ROBERT C. GESFORD, JR.,

Petitioner - Appellant,

versus

GENE M. JOHNSON, Virginia Department of  
Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. Glen E. Conrad, District Judge.  
(CA-03-827-7)

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Submitted: August 25, 2004

Decided: September 15, 2004

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Before MICHAEL and MOTZ, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Robert C. Gesford, Jr., Appellant Pro Se. Thomas Drummond Bagwell,  
Assistant Attorney General, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Robert C. Gesford, Jr., a state prisoner, seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C. § 2254 (2000). The order is not appealable 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 absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Gesford has not made the requisite showing.\* 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

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\*One of the claims of ineffective assistance of counsel Gesford asserts on appeal, as well as his claim of improper interrogation and judicial misconduct, were not raised before the district court. As Gesford has offered no exceptional circumstances justifying this failure, we are foreclosed from considering these claims on appeal. See Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993) (holding that claims raised for the first time on appeal will not be considered absent exceptional circumstances).

materials before the court and argument would not aid the decisional process.

DISMISSED