UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7034

JERVON L. HERBIN,

Petitioner - Appellant,

versus

RONALD J. ANGELONE, Director, Department of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (CA-00-1630-A)

Submitted: October 14, 2004 Decided: October 21, 2004

Before MOTZ, TRAXLER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jervon L. Herbin, Appellant Pro Se. Eugene Paul Murphy, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jervon L. Herbin seeks to appeal the district court's order denying relief on his Fed. R. Civ. P. 60(b) motion filed in his 28 U.S.C. § 2254 (2000) action. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000); Reid v. Angelone, 369 F.3d 363, 368-69 (4th Cir. 2004) (holding that appeal from the denial of a Rule 60(b) motion in a habeas action requires a certificate of appealability). 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, 336-38 (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 Herbin has not made the requisite showing. Accordingly, we deny Herbin's motion for appointment of counsel, deny a certificate of appealability, and dismiss the appeal.

To the extent Herbin's notice of appeal and informal brief could be construed as a motion for authorization to file a successive § 2254 petition, we deny such authorization. United

States v. Winestock, 340 F.3d 200, 208 (4th Cir.), cert. denied, 124 S.Ct. 496 (2003). 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