

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7225

MICHAEL E. TORY,

Petitioner - Appellant,

versus

K. J. BASSETT, Warden, Keen Mountain
Correctional Center,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Richmond. David G. Lowe, Magistrate
Judge. (CA-03-746)

Submitted: December 15, 2004

Decided: January 13, 2005

Before WILKINSON, KING, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael E. Tory, Appellant Pro Se. John H. McLees, Jr., 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Unpublished opinions are not binding precedent in this circuit.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:

Michael E. Tory appeals from the denial of his 28 U.S.C. § 2254 (2000) petition by the district court.* An appeal may not be taken to this court from the final order in a § 2254 proceeding 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 jurists of reason 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 reviewed the record and conclude that Tory has not made the requisite showing. We therefore 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

*Pursuant to 28 U.S.C. § 636(c), the parties consented to exercise of the district court's jurisdiction by a United States Magistrate Judge.