

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-7454**

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ANGELO D. PERRY,

Petitioner - Appellant,

versus

A. D. ROBINSON,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. David G. Lowe, Magistrate Judge. (CA-03-882-3)

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Submitted: January 27, 2005

Decided: February 3, 2005

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

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Dismissed by unpublished per curiam opinion.

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Angelo D. Perry, Appellant Pro Se. Robert H. Anderson, III, 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Unpublished opinions are not binding precedent in this circuit.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:

Angelo D. Perry, a state prisoner, seeks to appeal the magistrate judge's order denying relief on his petition filed under 28 U.S.C. § 2254 (2000).<sup>\*</sup> 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 magistrate judge 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, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Perry has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Perry's motion for appointment of counsel and 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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<sup>\*</sup>The parties consented to the jurisdiction of a magistrate judge pursuant to 28 U.S.C. § 636(c) (2000).