

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 05-7010**

---

DEREK HORTON,

Petitioner - Appellant,

versus

GENE M. JOHNSON, Director of Virginia  
Department of Corrections,

Respondent - Appellee.

---

Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. Glen E. Conrad, District Judge.  
(CA-05-364)

---

Submitted: October 21, 2005

Decided: November 17, 2005

---

Before MOTZ, TRAXLER, and DUNCAN, Circuit Judges.

---

Dismissed by unpublished per curiam opinion.

---

Derek Horton, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Derek Horton seeks to appeal the district court's order denying relief on his motion 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, 336-38 (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 Horton 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 materials before the court and argument would not aid the decisional process.

DISMISSED