

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7342

RASHAAD M. FLOYD, a/k/a Christopher Woods,

Plaintiff - Appellant,

versus

COMMONWEALTH OF VIRGINIA,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. M. Hannah Lauck, Magistrate Judge. (3:05-cv-00458-MHL)

Submitted: January 18, 2007

Decided: January 22, 2007

Before WILKINSON, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Rashaad M. Floyd, 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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rashaad Maleke Floyd, a state prisoner, seeks to appeal the magistrate judge's order¹ denying his motion to reconsider the denial of his 28 U.S.C. § 2254 (2000) petition.² 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); Reid v. Angelone, 369 F.3d 363, 371 (4th Cir. 2004); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Floyd 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

¹This case was decided by the magistrate judge upon consent of the parties under 28 U.S.C. § 636(c)(1) (2000) and Fed. R. Civ. P. 73.

²To the extent Floyd seeks to appeal the district court's order denying relief on his § 2254 petition, we dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.