

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7805

ST. AUBYN SEBASTIAN GAYLE,

Petitioner - Appellant,

versus

GENE JOHNSON, Director, Virginia Department of
Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Richmond. Robert E. Payne, District
Judge. (3:05-cv-00681)

Submitted: February 26, 2007

Decided: March 7, 2007

Before WILKINSON, MICHAEL, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

St. Aubyn Sebastian Gayle, Appellant Pro Se. Virginia Bidwell
Theisen, John H. McLees, Jr., OFFICE OF THE ATTORNEY GENERAL OF
VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

St. Aubyn Sebastian Gayle seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2000) petition. 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 any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. 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 Gayle has not made the requisite showing. Accordingly, we deny a certificate of appealability, dismiss the appeal, and deny Gayle's motions for appointment of counsel and to stay the proceedings. We deny Gayle's motion for 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