

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7599

DOUGLAS ANTRUM,

Petitioner - Appellant,

v.

GENE M. JOHNSON, Director of the Virginia Department of
Corrections; BRYAN WALDRON; ELIZABETH ANN LAGIER; JAMES
ARTHUR DEVITA,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Jerome B. Friedman, District
Judge. (2:07-cv-00552-JBF-JEB)

Submitted: July 22, 2010

Decided: July 29, 2010

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam
opinion.

Douglas Antrum, Appellant Pro Se. Karen Misbach, OFFICE OF THE
ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia; Bryan Waldron,
Elizabeth Ann LaGier, James Arthur DeVita, BUTLER LEGAL GROUP,
P.L.L.P., Washington, D.C., for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Douglas Antrum, a state prisoner, appeals the district court's order denying relief on his Fed. R. Civ. P. 11 motion for sanctions. We have reviewed the record and find no reversible error. Accordingly, we affirm the denial of sanctions for the reasons stated by the district court. See Antrum v. Johnson, No. 2:07-cv-00552-JBF-JEB (E.D. Va. filed July 30, 2009 & entered July 31, 2009).

The district court also denied relief on Antrum's Fed. R. Civ. P. 60(b) motion challenging the prior denial of his petition under 28 U.S.C. § 2254 (2006). That portion of the order is not appealable unless a circuit justice or judge issues a certificate of appealability. See 28 U.S.C. § 2253(c)(1) (2006). 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) (2006). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable

claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85. We have independently reviewed the record and conclude that Antrum has not made the requisite showing. Accordingly, we dismiss the portion of the appeal denying Antrum's Rule 60(b) motion relating to the prior denial of his 28 U.S.C. § 2254 petition.

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.

AFFIRMED IN PART;
DISMISSED IN PART