

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-7332

MARVIN LEON GRIMM, JR.,

Petitioner - Appellant,

v.

GENE JOHNSON, Director VA. Dept. of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, Chief District Judge. (3:10-cv-00593-JRS)

Submitted: March 29, 2012

Decided: April 5, 2012

Before DUNCAN, DAVIS, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Marvin Leon Grimm, Jr., Appellant Pro Se. Richard Carson Vorhis, Senior Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marvin Leon Grimm, Jr., seeks to appeal the district court's orders denying relief on his 28 U.S.C. § 2254 (2006) petition and denying his motion for reconsideration. The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. See 28 U.S.C. § 2253(c)(1)(A) (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 Grimm has not made the requisite showing. Accordingly, we deny the motions for a certificate of appealability and for leave to proceed in forma pauperis 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