UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6083

DONALD HERRINGTON,

Petitioner - Appellant,

v.

JOSEPH WALTERS,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Roderick Charles Young, District Judge. (3:23-cv-00748-RCY-MRC)

Submitted: April 10, 2026 Decided: August 14, 2026

Before NIEMEYER, THACKER, and RUSHING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Donald Herrington, Appellant Pro Se. Mitchell Ellis Sanders, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Virginia Beach, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Donald Herrington seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(A). 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). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists could find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 580 U.S. 100, 115-17 (2017). 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. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Herrington has not made the requisite showing. We agree with the district court that Herrington did not establish that Virginia law entitled him to additional earned sentence credit for the time he spent in jail before his incarceration in a correctional facility pursuant to a final order of conviction. *See* Va. Code Ann. § 53.1-202.2(A) (2025) (providing that inmate's eligibility for earned sentence credit system "commence[s] upon the person's incarceration in any correctional facility following entry of a final order of conviction by the committing court"); *White v. Dotson*, 903 S.E.2d 511, 512-13 (Va. 2024) (rejecting identical claim for additional earned sentence credit).

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 this court and argument would not aid the decisional process.

DISMISSED

[*] Herrington has filed a combined Emergency Motion for Expedited Judgment on the Pleadings and Motion for the Court to Request a Certified Question be Answered by the New Attorney General of Virginia Jay Jones. (ECF No. 10). Herrington has also filed a separate motion to expedite this appeal. (ECF No. 11). We deny as moot Herrington's motions to expedite and deny Herrington's motion to certify question.