

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6949**

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DARRELL W. COOK, JR.,

Petitioner - Appellant,

versus

COMMONWEALTH OF VIRGINIA; ROBERT G. O'HARA,  
Judge,

Respondents - Appellees.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, District Judge. (CA-04-146)

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Submitted: October 7, 2004

Decided: October 14, 2004

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Before WIDENER, NIEMEYER, and WILLIAMS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Darrell W. Cook, Jr., Appellant Pro Se. Paul Christopher Galanides, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellees.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Darrell W. Cook, Jr., a Virginia prisoner, seeks to appeal the district court's order dismissing his petition filed under 28 U.S.C. § 2254 (2000) without prejudice for failure to comply with a previous court order. An appeal may not be taken from the final order in a § 2254 proceeding 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 for claims addressed by a district court 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 both 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); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Cook has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny his pending motion for appointment of counsel. 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