

**UNPUBLISHED****UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 18-6834**

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JAMES E. JESSUP, a/k/a Jimmy Jessup,

Petitioner - Appellant,

v.

HAROLD CLARKE, Dir. of Va. Dept. of Corr.,

Respondent - Appellee.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Glen E. Conrad, District Judge. (7:17-cv-00507-GEC-RSB)

Submitted: December 26, 2018

Decided: January 4, 2019

Before WILKINSON, DUNCAN, and QUATTLEBAUM, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James E. Jessup, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

James E. Jessup seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2012) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (2012). 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) (2012). 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 Jessup has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny 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 this court and argument would not aid the decisional process.

*DISMISSED*

FILED: January 4, 2019

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JUDGMENT

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In accordance with the decision of this court, a certificate of appealability is denied and the appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JAMES JESSUP, )  
Petitioner, ) Case No. 7:17CV00507  
v. )  
 )  
 ) **ORDER**  
 )  
 )  
 )  
HAROLD CLARKE, ) By: Robert S. Ballou  
Respondent. ) United States Magistrate Judge

Respondent has filed an amended motion to correct an exhibit to the recently filed brief in support of respondent's motion to dismiss. For good cause shown, it is **ORDERED** that petitioner's motion (ECF No. 24) is **GRANTED**; the clerk shall substitute on the court's docket the attached, corrected Exhibit D in place of the previously filed exhibit, and respondent's prior motion regarding the exhibit (ECF No. 23) is **DISMISSED** as moot.

The clerk will send a copy of this order to petitioner and counsel of record for respondent.

ENTER: this 28<sup>th</sup> day of February, 2018.

s/Robert S. Ballou  
United States Magistrate Judge

JUN 14 2018

JULIA C. DUDLEY, CLERK  
S.Y. DEPUTY CLERK

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

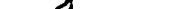
In accordance with the accompanying memorandum opinion, it is hereby

**ADJUDGED AND ORDERED**

that the motion to dismiss, ECF No 18, is **GRANTED**, the petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, is **DISMISSED**, and the clerk shall **STRIKE** this action from the active docket of the court.

Further, finding that petitioner has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is DENIED.

ENTER: This 14~~14~~ day of June, 2018.

  
\_\_\_\_\_  
Senior United States District Judge

**Additional material  
from this filing is  
available in the  
Clerk's Office.**