

UNPUBLISHED**UNITED STATES COURT OF APPEALS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

No. 19-6221

KARL HEINZ DEPUY,

Petitioner - Appellant,

v.

UNKNOWN,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Liam O'Grady, District Judge. (1:18-cv-01361-LO-MSN)

Submitted: June 20, 2019

Decided: June 25, 2019

Before NIEMEYER, AGEE, and RICHARDSON, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Karl Heinz Depuy, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Karl Heinz Depuy 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 Depuy 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: June 25, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-6221
(1:18-cv-01361-LO-MSN)

KARL HEINZ DEPUY

Petitioner - Appellant

v.

UNKNOWN

Respondent - Appellee

JUDGMENT

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
EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

Karl-Heinz Dupuy,)
Petitioner,)
)
v.) 1:18cv1361 (LO/MSN)
)
Unknown,)
Respondent.)

ORDER

Karl-Heinz Dupuy, a Virginia inmate proceeding pro se, initiated this action by sending a letter to the court, stating that he had been wrongfully convicted of unspecified offenses. By an Order dated November 13, 2018, Dupuy was informed that the exclusive statutory basis for a litigant's right to apply to federal court for relief from a conviction or sentence entered by a state court is 28 U.S.C. § 2254, and that his correspondence would be interpreted as seeking such relief. Dupuy was supplied with a standard form petition for relief under § 2254 and was allowed thirty (30) days within which to complete and file it, in accordance with Local Civil Rule 83.4. Dupuy was also assessed the statutory filing fee of \$ 5.00 and was instructed either to pay the fee or to apply to proceed in forma pauperis within thirty (30) days. Petitioner was advised that failure to adhere to any part of the Order within thirty (30) days would result in dismissal of the petition. Dupuy has submitted a motion for leave to proceed in forma pauperis, but he has failed to file the habeas corpus petition.

Accordingly, it is hereby

ORDERED that the petition be and is DISMISSED WITHOUT PREJUDICE.

To appeal, the petitioner must file a written notice of appeal with the Clerk's Office within thirty (30) days of the date of this Order. A written notice of appeal is a short statement stating a desire to appeal this Order and noting the date of the Order petitioner wants to appeal. Petitioner need not explain the grounds for appeal until so directed by the court. Petitioner must also request a certificate of appealability from a circuit justice or judge. See 28 U.S.C. § 2253 and Fed. R. App. P. 22(b). For the reasons stated above, this Court expressly declines to issue such a certificate.

The Clerk is directed to send a copy of this Order to petitioner and to close this civil action.

Entered this 18th day of January 2019.

Alexandria, Virginia

/s/ 
Liam O'Grady
United States District Judge

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

Karl-Heinz Depuy,)
Petitioner,)
v.)
)
Unknown,)
Respondent.)
)
1:18cv1361 (LO/MSN)

ORDER

Karl-Heinz Depuy, a Virginia inmate proceeding pro se, has filed a letter with the Court stating that he has been wrongfully convicted of unspecified offenses that occurred while he was "defending his home from minors" who targeted him as part of a gang initiation. The exclusive statutory basis for a litigant's right to apply to federal court for relief from a conviction or sentence entered by a state court is 28 U.S.C. § 2254. Preiser v. Rodriguez, 411 U.S. 475 (1973). Therefore, in deference to petitioner's pro se status, the Court interprets this correspondence as seeking relief pursuant to § 2254. Petitioner has neither paid the statutory filing fee for an action pursuant to § 2254 nor applied to proceed in forma pauperis.

Local Civil Rule 83.4 directs that "[a]ll pro se petitions for writs of habeas corpus must be filed on a set of standardized forms to be supplied, upon request, by the Clerk without cost to the petitioner." Petitioner in this action has not complied these directions, and instead has submitted a pleading which does not supply sufficient information to allow the Court to determine what claims petitioner wishes to raise and whether those claims have been exhausted in the state forum¹ or are procedurally defaulted. Accordingly, petitioner will be directed to

¹Before bringing a federal habeas petition, state prisoners must first exhaust their claims in the appropriate state court. Failure to exhaust all claims requires dismissal of the complaint to allow

submit an amended petition using a set of standardized forms, in compliance with the Local Rules.

Accordingly, it is hereby

ORDERED that the petition be and is conditionally filed pending compliance with the requirements of this Order; and it is further

ORDERED that the petitioner is assessed a filing fee of \$5.00 pursuant to 28 U.S.C. § 1914(a); and it is further

ORDERED that petitioner pay the \$5.00 filing fee or complete the attached application to proceed in forma pauperis. If the Court grants petitioner in forma pauperis status, petitioner will not be required to pay the fee. FAILURE TO PAY THE \$5.00 FILING FEE OR TO RETURN THE COMPLETED ATTACHED APPLICATION WITHIN THIRTY (30) DAYS WILL RESULT IN DISMISSAL OF THIS ACTION WITHOUT PREJUDICE; and it is further

ORDERED that the Clerk request petitioner's institution to provide an Inmate Account Report Form on petitioner within thirty (30) days of the date of this Order; and it is further

ORDERED that petitioner particularize and amend his petition within thirty (30) days of the date of this Order by **thoroughly** completing the attached form for filing a federal petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner must include civil action number 1:18cv1361 (LO/MSN), on the first page of his amended petition, and this amended petition will serve as the **sole** petition in this civil action; and it is further

ORDERED that petitioner's failure to comply with any part of this Order within

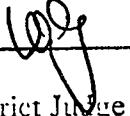
the petitioner to first present his claims to the appropriate state courts. See 28 U.S.C. § 2254(b); Preiser, 411 U.S. at 475.

THIRTY (30) DAYS FROM THE DATE OF THIS ORDER, or failure to notify this Court immediately in the event he is transferred, released, or otherwise relocated, may result in the dismissal of this complaint pursuant to Fed. R. Civ. P. 41(b).

The Clerk is directed to send a copy of this Order, a standard 28 U.S.C. § 2254 form, and an application to proceed in forma pauperis to petitioner, as well as a copy of this Order and the Inmate Account Report Form to petitioner's current institution of confinement.

Entered this 13th day of Nov. 2018.

Alexandria, Virginia

/s/ 
Liam O'Grady
United States District Judge

Virginia Department of Corrections

Offender Trust Daily Receipt

Account Location: GREENSVILLE CORRECTIONAL CENTER FG

COV\uxn57460
8/9/2019 8:05:41 AM
corissnap

Beginning Date:	8/8/2019	Ending Date:	8/8/2019
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Depuy, Karl Heinz (1869604)

Greenville Correctional Center [HU2-2-206-B]

Beginning Payables:	SPEND (511) 38.44	HOLD (512) 5.26	SAVINGS (513) 89.16	COMMISSARY (514) 0.00	UNCLAIMED (515) 0.00	RESERVE (516) 0.00	COURT (519) 0.00	CHILD SUPPORT (520) 0.00
Beginning Receivables:	LOANS (211) 0.00		MEDCO LOANS (212) 0.00					

Post Date	Batch Number	Transaction Description	TC REF	Amount	Received From / Payee Name
08/08/2019	GCC20190808WDSL01	Commissary #1 - Spend	73-511	16.98	Keefe

Ending Payables:	SPEND (511) 21.46	HOLD (512) 5.26	SAVINGS (513) 89.16	COMMISSARY (514) 0.00	UNCLAIMED (515) 0.00	RESERVE (516) 0.00	COURT (519) 0.00	CHILD SUPPORT (520) 0.00
Ending Receivables:	LOANS (211) 0.00		MEDCO LOANS (212) 0.00					