

FILED: August 26, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-6350 (L)
(2:16-cv-00737-AWA-LRL)

DEVINCHE JAVON ALBRITTON

Petitioner - Appellant

v.

HAROLD CLARKE, Director of the Virginia Department of Corrections

Respondent - Appellee

No. 19-6464
(2:16-cv-00737-AWA-LRL)

DEVINCHE JAVON ALBRITTON

Petitioner - Appellant

v.

HAROLD CLARKE, Director of the Virginia Department of Corrections

Respondent - Appellee

JUDGMENT

In accordance with the decision of this court, a certificate of appealability is denied and these appeals are 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

UNPUBLISHED**UNITED STATES COURT OF APPEALS
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HAROLD CLARKE, Director of the Virginia Department of Corrections,

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Petitioner - Appellant,

v.

HAROLD CLARKE, Director of the Virginia Department of Corrections,

Respondent - Appellee.

Appeals from the United States District Court for the Eastern District of Virginia, at Norfolk. Arenda L. Wright Allen, District Judge. (2:16-cv-00737-AWA-LRL)

Submitted: August 22, 2019

Decided: August 26, 2019

Before KING and RICHARDSON, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

DeVinche Albritton, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In these consolidated cases, DeVinche Javon Albritton seeks to appeal the district court's orders accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2254 (2012) petition and denying Albritton's postjudgment motion, which the court considered pursuant to Fed. R. Civ. P. 60(b). The orders are 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 Albritton has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, and dismiss these appeals. 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: October 1, 2019

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ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge King, Judge Richardson, and Senior Judge Hamilton.

For the Court

/s/ Patricia S. Connor, Clerk