

UNPUBLISHED

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

No. 22-7351

LARRY D. MOSLEY,

Petitioner - Appellant,

v.

PHILLIP A. WHITE, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Michael F. Urbanski, Chief District Judge. (7:21-cv-00435-MFU-RSB)

Submitted: September 20, 2023

Decided: October 12, 2023

Before WYNN, HARRIS, and RICHARDSON, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Larry D. Mosley, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Larry D. Mosley 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 Mosley has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We grant Mosley's motion to exceed length limitations on his informal brief. 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 12, 2023

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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/ NWAMAKA ANOWI, CLERK

APPENDICE.....E

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

LARRY D. MOSLEY,
Petitioner,
v.
PHILLIP A. WHITE, Warden,
Respondent.) Civil Action No. 7:21cv00435
) FINAL ORDER
) By: Michael F. Urbanski
) Chief United States District Judge

In accordance with the memorandum opinion entered this day, it is hereby
ORDERED that the respondent's motion to dismiss (ECF No. 11) is **GRANTED**,
petitioner's motion for summary judgment (ECF No. 25) is **DENIED**, Mosley's 28 U.S.C. §
2254 petition is **DISMISSED**, and this action is **STRICKEN** from the active docket of the
court.

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

The Clerk shall send copies of this order and accompanying memorandum opinion to all counsel of record and to Mosley.

ENTER: This 28th day of October, 2022.



Digitally signed by
Michael F. Urbanski
Chief U.S. District Judge
Date: 2022.10.28 18:33:22
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Michael F. Urbanski
Chief United States District Judge