

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6189

JOSHUA PATERNOSTER-COZART,

Petitioner - Appellant,

v.

RONALDO MYERS, Superintendent of Hampton Roads Regional Jail,

Respondent - Appellee,

and

HAMPTON CITY CIRCUIT COURT; LINDA BACHELOR SMITH, Clerk;
HAMPTON SHERIFF'S OFFICE; B. J. ROBERTS, Sheriff,

Defendants.

Appeal from the United States District Court for the Eastern District of Virginia, at
Norfolk. Mark S. Davis, District Judge. (2:16-cv-00633-MSD-LRL)

Submitted: July 31, 2017

Decided: August 25, 2017

Before WILKINSON, NIEMEYER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joshua Paternoster-Cozart, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joshua Paternoster-Cozart 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 the issue Paternoster-Cozart sought to raise was litigated in a previous § 2254 petition, and he accordingly has not made the requisite showing. Thus, we grant the motion for party substitution and replace Bob McCabe with Ronaldo Myers, deny the motion to appoint counsel and expedite decision, deny the motion for a certificate of appealability, deny the motion for 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