

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 17-6631**

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BILLY F. LARKIN,

Petitioner - Appellant,

v.

JOHNNY HAWKINS, Superintendent; ROY COOPER, Attorney General of the  
State of North Carolina,

Respondents - Appellees.

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Appeal from the United States District Court for the Eastern District of North Carolina, at  
Raleigh. James C. Dever III, Chief District Judge. (5:16-hc-02031-D)

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Submitted: September 26, 2017

Decided: October 3, 2017

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Before WILKINSON, FLOYD, and THACKER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Billy F. Larkin, Appellant Pro Se. Clarence Joe DeForge, III, NORTH CAROLINA  
DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Billy F. Larkin 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 Larkin has not made the requisite showing. Accordingly, we deny Larkin's motion for 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*