

**UNPUBLISHED**

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

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**No. 19-7329**

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THOMAS M. TULLY,

Petitioner - Appellant,

v.

HAROLD CLARKE,

Respondent - Appellee.

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Appeal from the United States District Court for the Western District of Virginia, at  
Roanoke. Michael F. Urbanski, Chief District Judge. (7:18-cv-00571-MFU-RSB)

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Submitted: January 23, 2020

Decided: January 28, 2020

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Before WYNN, DIAZ, and RICHARDSON, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Thomas M. Tully, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas M. Tully seeks to appeal the district court's order dismissing as successive his 28 U.S.C. § 2254 (2018) 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) (2018). 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) (2018). 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 Tully has not made the requisite showing. Accordingly, we deny Tully'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*