

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7257

ANDRE MICHAEL SPATES, a/k/a Andre M. Spates El,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA; BARNEY OWENS,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Richard Ernest Myers, II, District Judge. (5:19-hc-02283-M)

Submitted: November 19, 2020

Decided: November 24, 2020

Before WILKINSON, KING, and QUATTLEBAUM, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Andre Michael Spates, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Andre Michael Spates seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 petition as an unauthorized, successive § 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, as here, 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 Spates has not made the requisite showing. Accordingly, we deny a certificate of appealability 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