

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-7011**

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FRANCIS HEMPSTON MCFADDEN,

Petitioner - Appellant,

v.

GEORGE SNYDER, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (5:09-hc-02004-D)

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Submitted: December 16, 2010

Decided: December 28, 2010

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Before GREGORY, DUNCAN, and DAVIS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Francis Hempston McFadden, Appellant Pro Se. William E.H. Creech, Joshua Bryan Royster, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina; Christina Ann Kelley, BUREAU OF PRISONS, Butner, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Francis Hempston McFadden, a District of Columbia prisoner housed in North Carolina, seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2241 (West 2006 & Supp. 2010) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006). 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) (2006). 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 McFadden 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 the court and argument would not aid the decisional process.

DISMISSED