

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6037

JAMES VANG,

Petitioner - Appellant,

v.

JON OZMINT, Director of SCDC; WARDEN OF PERRY CORRECTIONAL
INSTITUTION,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. Richard Mark Gergel, District
Judge. (0:08-cv-02829-RMG)

Submitted: March 31, 2011

Decided: April 6, 2011

Before NIEMEYER, SHEDD, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James Vang, Appellant Pro Se. Donald John Zelenka, Deputy
Assistant Attorney General, Alphonso Simon, Jr., Assistant
Attorney General, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Vang seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2254 (2006) petition and the court's order denying Vang's motion to reconsider. The orders are 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 Vang has not made the requisite showing. Accordingly, we deny Vang's motion for 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