

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6576

GARY VANNATTER, SR.,

Petitioner - Appellant,

v.

MICHAEL MCCALL, Warden of Perry Correctional Institute,

Respondent - Appellee.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. Joseph F. Anderson, Jr.,
District Judge. (6:11-cv-00235-JFA)

Submitted: December 20, 2011

Decided: December 22, 2011

Before MOTZ, DUNCAN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Gary Vannatter, Sr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gary Vannatter, Sr., seeks to appeal the district court's order accepting the recommendation of the magistrate judge to dismiss Vannatter's 28 U.S.C. § 2254 (2006) petition as an unauthorized, successive 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) (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 Vannatter 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