

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

**No. 11-7570**

KAREEM ABDULLAH KIRK,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA; ROY COOPER; ALVIN WILLIAM KELLER,  
JR.,

Respondents - Appellees.

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Appeal from the United States District Court for the Western  
District of North Carolina, at Charlotte. Robert J. Conrad,  
Jr., Chief District Judge. (3:11-cv-00513-RJC)

Submitted: March 15, 2012

Decided: March 20, 2012

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Before DUNCAN and FLOYD, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Kareem Abdullah Kirk, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kareem Abdullah Kirk, a state prisoner, seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2241 (West 2006 & Supp. 2011) petition without prejudice to his ability to file a 28 U.S.C. § 2254 (2006) petition on his claim challenging the constitutionality of his conviction. 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 Kirk 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