

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7537

BRIAN DANIELS,

Petitioner - Appellant,

v.

ANTHONY J. PADULA,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Patrick Michael Duffy, Senior District Judge. (0:09-cv-00755-PMD)

Submitted: January 24, 2013

Decided: February 5, 2013

Before MOTZ and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Brian Daniels, Appellant Pro Se. Donald John Zelenka, Senior Assistant Attorney General, Alphonso Simon, Jr., Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Brian Daniels seeks to appeal the district court's orders denying his Fed. R. Civ. P. 60(b) motion for reconsideration of the district court's order denying relief on his 28 U.S.C. § 2254 (2006) petition and his Fed. R. Civ. P. 59(e) motion seeking to alter or amend the district court's order denying Rule 60(b) relief.* These orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A) (2006); Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004). 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

* We reject Daniels' argument that the district court's issuance of margin orders violates his due process rights.

claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85.

We have independently reviewed the record and conclude that Daniels 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