

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-8153

TIMOTHY WAYNE WILBANKS,

Petitioner - Appellant,

v.

WILLIAM R. BYARS, Dir SCDC; RICKY CHASTAIN, Sheriff Laurens
Co,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Florence. Mary G. Lewis, District Judge.
(4:11-cv-02675-MGL)

Submitted: February 26, 2013

Decided: March 1, 2013

Before MOTZ, WYNN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Timothy Wayne Wilbanks, Appellant Pro Se. Donald John Zelenka,
Senior Assistant Attorney General, Brendan McDonald, OFFICE OF
THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South
Carolina; Russell W. Harter, Jr., CHAPMAN, HARTER & HARTER, PA,
Greenville, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Timothy Wayne Wilbanks 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. 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 Wilbanks has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, 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