

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-6048**

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ROBERT GRAHAM, JR.,

Petitioner - Appellant,

v.

STATE ATTORNEY GENERAL; LEROY CARTLEDGE,

Respondents - Appellees.

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Appeal from the United States District Court for the District of South Carolina, at Greenville. Cameron McGowan Currie, District Judge. (6:12-cv-02699-CMC)

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Submitted: March 26, 2013

Decided: March 29, 2013

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Before DUNCAN, FLOYD, and THACKER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Robert Graham, Jr., Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Graham, Jr., a state prisoner, seeks to appeal the district court's order accepting the recommendations of the magistrate judge to construe his 28 U.S.C.A. § 2241 (West 2006 & Supp. 2012) petition as a 28 U.S.C. § 2254 (2006) petition and to dismiss the petition as successive and unauthorized. 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 Graham has not made the requisite showing. Accordingly, we deny Graham's request for appointment of counsel, 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