

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6619

SANTIAGO DOROTEO AYALA,

Petitioner - Appellant,

v.

REUBEN YOUNG, Secretary of Prison; ROBERT C. LEWIS,
Director; DUANE TERRELL, Administrator,

Respondents - Appellees.

Appeal from the United States District Court for the Middle
District of North Carolina, at Greensboro. L. Patrick Auld,
Magistrate Judge. (1:12-cv-00418-LPA)

Submitted: August 20, 2013

Decided: August 23, 2013

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

Dismissed by unpublished per curiam opinion.

Santiago Doroteo Ayala, Appellant Pro Se. Clarence Joe
DelForge, III, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh,
North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Santiago Doroteo Ayala seeks to appeal the district court's order dismissing as untimely 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 Ayala has not made the requisite showing. Accordingly, we deny Ayala's motion for a certificate of appealability, deny permission 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