

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6737

CURTIS ANTHONY WITHERSPOON,

Petitioner - Appellant,

v.

SUSAN R. WHITE,

Respondent - Appellee.

Appeal from the United States District Court for the Western
District of North Carolina, at Asheville. Robert J. Conrad,
Jr., Chief District Judge. (1:12-cv-00352-RJC)

Submitted: August 26, 2013

Decided: September 4, 2013

Before WILKINSON, MOTZ, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Curtis Anthony Witherspoon, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Curtis Anthony Witherspoon seeks to appeal the district court's order 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 ("COA"). See 28 U.S.C. § 2253(c)(1)(A) (2006). A COA 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. See Slack v. McDaniel, 529 U.S. 473, 484 (2000); 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.

Here, the district court denied relief on procedural grounds. In particular, Witherspoon's petition is time-barred under 28 U.S.C. § 2244(d)(1). We have independently reviewed the record and conclude that Witherspoon has not made the requisite showing for a COA. Accordingly, we 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