

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-7776**

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MICHAEL GLEASON,

Petitioner - Appellant,

v.

GEORGE JANICE, Warden, Stevens Correctional Center,

Respondent - Appellee,

and

HONORABLE DARRELL V. MCGRAW, JR., Attorney General,

Respondent.

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Appeal from the United States District Court for the Northern  
District of West Virginia, at Martinsburg. Gina M. Groh,  
District Judge. (3:13-cv-00061-GMG-JES)

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Submitted: January 23, 2014

Decided: January 28, 2014

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

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Dismissed by unpublished per curiam opinion.

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Thomas Gregory Dyer, DYER LAW OFFICE, Clarksburg, West Virginia;  
David J. Joffe, JOFFE LAW, P.A., Fort Lauderdale, Florida, for  
Appellant. Laura Young, OFFICE OF THE ATTORNEY GENERAL OF WEST  
VIRGINIA, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Gleason seeks to appeal the district court's order accepting the recommendation of the magistrate judge and 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 Gleason 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