UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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No. 14-7738

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JAMES TERRELL AUSTIN,

         Petitioner - Appellant,

    v.

STATE OF NORTH CAROLINA; MIKE BALL,

         Respondents - Appellees.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Frank D. Whitney, Chief District Judge. (3:14-cv-00617-FDW)

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Submitted: April 24, 2015   Decided: May 20, 2015

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Before WILKINSON and HARRIS, Circuit Judges, and DAVIS, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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James Terrell Austin, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Terrell Austin seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2012) 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) (2012). 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) (2012). 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 Austin 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.

                                                              <u>DISMISSED</u>