UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6181

SHAHEEN CABBAGESTALK,

Petitioner – Appellant,

v.

WARDEN J. MCFADDEN,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Orangeburg. Richard Mark Gergel, District Judge. (5:14-cv-04690-RMG)

Submitted: May 19, 2015 Decided: May 22, 2015

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

Dismissed by unpublished per curiam opinion.

Shaheen Cabbagestalk, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Shaheen Cabbagestalk seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing this 28 U.S.C. § 2254 (2012) petition without prejudice. 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 Cabbagestalk 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