

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-6349**

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ROBERT JAMES MILLER, JR.,

Petitioner - Appellant,

v.

WARDEN, Broad River Correctional Institution,

Respondent - Appellee,

and

BRIAN STIRLING, Director South Carolina Department of  
Corrections,

Respondent.

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Appeal from the United States District Court for the District of  
South Carolina, at Aiken. R. Bryan Harwell, District Judge.  
(1:14-cv-00483-RBH)

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Submitted: July 28, 2015

Decided: August 12, 2015

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Before SHEDD, DIAZ, and THACKER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Robert James Miller, Jr., Appellant Pro Se. James Anthony  
Mabry, Assistant Attorney General, Donald John Zelenka, Senior  
Assistant Attorney General, Columbia, South Carolina, for  
Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert James Miller, Jr., seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his 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 Miller has not made the requisite showing. Accordingly, we deny Miller's motion for 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