

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6736

FREDERICK ALPHONSO DEMETRE IRBY,

Petitioner - Appellant,

v.

WARDEN, Broad River Correctional Institution,

Respondent - Appellee,

and

SOUTH CAROLINA,

Respondent.

Appeal from the United States District Court for the District Court
for the District of South Carolina, at Aiken. Richard Mark Gergel,
District Judge. (1:14-cv-03583-RMG)

Submitted: July 21, 2015

Decided: July 24, 2015

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

Dismissed by unpublished per curiam opinion.

Frederick Alphonso Demetre Irby, Appellant Pro Se. Donald John
Zelenka, Senior Assistant Attorney General, Caroline M. Scrantom,
OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South
Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frederick Alphonso Demetre Irby seeks to appeal the district court's order accepting the recommendation of the magistrate judge and 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 Irby has not made the requisite showing. Accordingly, we deny Irby's motion for a certificate of appealability, deny his motion for a transcript at government expense, deny as moot his motion for an extension of time to file his informal brief, 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