

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-6843**

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THOMAS F. MITCHELL, JR.,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, VDOC Director,

Respondent - Appellee.

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Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. Jackson L. Kiser, Senior  
District Judge. (7:14-cv-00086-JLK-RSB)

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Submitted: November 30, 2015

Decided: December 2, 2015

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Before WILKINSON, SHEDD, and WYNN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Thomas F. Mitchell, Jr., Appellant Pro Se. James Milburn  
Isaacs, Jr., OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA,  
Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas F. Mitchell, Jr., a state prisoner, seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2241 (2012) petition, which the court also construed as a 28 U.S.C. § 2254 (2012) petition. Mitchell also seeks to appeal the district court's order denying his postjudgment motion. The orders are 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 Mitchell 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.

DISMISSED