

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 16-6440**

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MONTAVIS KENTRAIL GAINES,

Petitioner - Appellant,

v.

WARDEN RICHARD COTHRAM,

Respondent - Appellee.

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Appeal from the United States District Court for the District of  
South Carolina, at Orangeburg. J. Michelle Childs, District Judge.  
(5:14-cv-04652-JMC)

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Submitted: February 10, 2017

Decided: February 21, 2017

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Before TRAXLER, KING, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Montavis Kentrail Gaines, Appellant Pro Se. Donald John Zelenka,  
Senior Assistant Attorney General, Alphonso Simon, Jr., Assistant  
Attorney General, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Montavis Kentrail Gaines 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 Gaines has not made the requisite showing. Accordingly, we deny Gaines' motion for 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