

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6600

JOSE ANGEL HERRERA,

Petitioner - Appellant,

v.

JOSEPH MCFADDEN, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Margaret B. Seymour, Senior District Judge. (6:15-cv-00505-MBS)

Submitted: October 18, 2016

Decided: October 20, 2016

Before WILKINSON, KING, and FLOYD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jose Angel Herrera, Appellant Pro Se. Donald John Zelenka, Senior Assistant Attorney General, James Anthony Mabry, Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jose Angel Herrera 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 Herrera has not made the requisite showing. Accordingly, although we grant Herrera's motion for leave to file a supplemental informal brief, 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