UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7307

ANDREW JAMMIE MACK,

Petitioner - Appellant,

v.

WARDEN TRENTON CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

STATE OF SOUTH CAROLINA,

Respondent.

Appeal from the United States District Court for the District of South Carolina, at Florence. Henry M. Herlong, Jr., Senior District Judge. (4:16-cv-00838-HMH)

Submitted: February 22, 2017 Decided: March 8, 2017

Before MOTZ, KING, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Andrew Jammie Mack, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Andrew Jammie Mack seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing as untimely 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 Mack has not made the requisite showing. Accordingly, we deny the motion to appoint counsel and for a transcript at government expense, 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