## **UNPUBLISHED**

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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	No. 16-7466	
FREDDY SIBRIAN,		
Petitioner - Ap	ppellant,	
V.		
WARDEN PERRY CORRECTION	NAL INSTITUTION,	
Respondent - A	Appellee.	
<u>-</u>		
Appeal from the United States I Charleston. Bruce H. Hendricks, D		
Submitted: March 30, 2017		Decided: April 3, 2017
Before TRAXLER and WYNN, Ci	rcuit Judges, and HA	MILTON, Senior Circuit Judge.
Dismissed by unpublished per curia	am opinion.	
Freddy Sibrian, Appellant Pro ATTORNEY GENERAL OF SO Assistant Attorney General, Colum	OUTH CAROLINA,	Donald John Zelenka, Senior
Unpublished opinions are not bindi	ng precedent in this c	rircuit.

## PER CURIAM:

Freddy Sibrian 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 Sibrian has not made the requisite showing. Accordingly, 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**