

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6249

WALTER TIMOTHY GAUSE,

Petitioner - Appellant,

v.

FRANK L. PERRY,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of North Carolina,
at Charlotte. Frank D. Whitney, Chief District Judge. (3:16-cv-00631-FDW)

Submitted: September 5, 2017

Decided: September 20, 2017

Before SHEDD and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Walter Timothy Gause, Appellant Pro Se. Jess D. Mekeel, NORTH CAROLINA
DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Walter Timothy Gause seeks to appeal the district court's order 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 grant Gause's motion to amend his informal brief and construe Gause's motions for review, for static of court, to excuse procedural default, and for a certificate of appealability as supplemental motions to amend the informal brief, and we grant leave to amend. We have independently reviewed the record in light of the claims Gause raises on appeal and conclude that he has not made the requisite showing for a certificate of appealability. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, deny Gause's motions to appoint counsel, to dismiss the indictment, for postjudgment discovery, for static urgency, for summary disposition, and for relief, and we 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