

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 17-6304**

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KEITH A. SIMS,

Petitioner - Appellant,

v.

ROBERT STEVENSON, Warden, Broad River Correctional Institution,

Respondent - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Aiken.  
J. Michelle Childs, District Judge. (1:14-cv-04661-JMC)

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Submitted: September 29, 2017

Decided: October 17, 2017

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Before NIEMEYER, SHEDD, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Keith A. Sims, Appellant Pro Se. Donald John Zelenka, Deputy Attorney General, Melody Jane Brown, Assistant Attorney General, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

Keith A. Sims seeks to appeal the district court's orders accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2254 (2012) petition and a subsequent order denying his Fed. R. Civ. P. 59(e) motion to alter or amend judgment. The orders are 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 Sims has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, deny Sims' motion to appoint counsel, 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*