

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-6327

CURTIS J. HARDY,

Petitioner - Appellant,

v.

JENNIFER SAAD,

Respondent - Appellee,

and

CHARLES WILLIAMS,

Respondent.

Appeal from the United States District Court for the Northern District of West Virginia,
at Martinsburg. Gina M. Groh, Chief District Judge. (3:15-cv-00086-GMG-JES)

Submitted: October 17, 2017

Decided: October 19, 2017

Before FLOYD and HARRIS, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Curtis J. Hardy, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Curtis J. Hardy, a federal inmate, seeks to appeal the district court's order accepting the recommendation of the magistrate judge, treating his 28 U.S.C. § 2241 (2012) petition as a 28 U.S.C. § 2255 (2012) motion, and dismissing the motion for lack of jurisdiction. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(B) (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 motion 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 Hardy 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