

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6353

DONALD DURRANT FARROW,

Petitioner - Appellant,

v.

ERIK A. HOOKS; PAUL G. BUTLER, JR.; FAYE DANIELS,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, Chief District Judge. (5:17-hc-02134-D)

Submitted: August 28, 2018

Decided: September 5, 2018

Before NIEMEYER and KEENAN, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed in part and dismissed in part by unpublished per curiam opinion.

Donald Durrant Farrow, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Donald Durrant Farrow seeks to appeal the district court's order dismissing his petition for lack of jurisdiction. The portion of the district court's order denying the petition as an unauthorized successive 28 U.S.C. § 2254 (2012) petition is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 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 Farrow has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss this portion of the appeal.

We affirm the portion of the district court's order denying mandamus relief because the district court is not empowered to enter mandamus relief against state officials. *See Gurley v. Superior Court of Mecklenburg Cty.*, 411 F.2d 586, 587 (4th Cir. 1969). We grant Farrow leave to proceed in forma pauperis. 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.

*AFFIRMED IN PART,
DISMISSED IN PART*