

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6795

JOWARSKI RUSSELL NEDD,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director, Virginia Department of Corrections,

Respondent - Appellee.

No. 18-7285

JOWARSKI RUSSELL NEDD,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director, Virginia Department of Corrections,

Respondent - Appellee.

Appeals from the United States District Court for the Eastern District of Virginia, at
Richmond. John A. Gibney, Jr., District Judge. (3:16-cv-00948-JAG-RCY)

Submitted: May 29, 2019

Decided: June 20, 2019

Before KING, FLOYD, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jowarski Russell Nedd, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In Appeal No. 18-6795, Jowarski Russell Nedd seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2012) petition.* In Appeal No. 18-7285, Nedd seeks to appeal the district court's subsequent order denying reconsideration. 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 remanded for the limited purpose of permitting the district court to determine whether Nedd is entitled to a reopening of the appeal period pursuant to Fed. R. App. P. 4(a)(6). On remand, the district court granted Nedd's motion to reopen.

We have independently reviewed the record and conclude that Nedd has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeals. 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