

UNPUBLISHED

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

No. 18-6932

KAREEM JAMAL CURRENCE,

Petitioner - Appellant,

v.

DONNA M. SMITH,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. James C. Dever III, District Judge. (5:18-hc-02027-D)

Submitted: November 15, 2018

Decided: November 20, 2018

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

Affirmed in part, dismissed in part by unpublished per curiam opinion.

Kareem Jamal Currence, Appellant Pro Se. Christopher Michael Anderson, OFFICE OF
THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kareem Jamal Currence, a federal prisoner, appeals the district court's order dismissing his self-styled 28 U.S.C. § 2241 (2012) motion. The district court dismissed the petition in part for failure to state a claim, and in part because it determined that it lacked jurisdiction over what it construed to be a successive habeas motion. We affirm in part and dismiss in part.

As to the district court's dismissal of Currence's constitutional challenges for failure to state a claim, we have reviewed the record and find no reversible error. Accordingly, we affirm this portion of the district court's order for the reasons stated by the district court. *See Currence v. Smith*, No. 5:18-hc-02027-D (E.D.N.C. July 20, 2018).

To the extent the district court construed Currence's challenges as successive and unauthorized habeas claims that should have been brought under 28 U.S.C. § 2255 (2012), that portion of the district court's 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 Currence has not made the requisite showing.

Accordingly, we deny a certificate of appealability and dismiss the appeal, in part. 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*