

UNPUBLISHED

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

No. 18-7056

MATTHEW OLIVER ALFORD,

Petitioner - Appellant,

v.

ERIK A. HOOKS, Secretary of Public Safety; CARLOS HERNANDEZ,
Superintendent of Avery-Mitchell Correctional Institution,

Respondents - Appellees.

Appeal from the United States District Court for the Western District of North Carolina,
at Asheville. Frank D. Whitney, Chief District Judge. (1:18-cv-00217-FDW)

Submitted: December 18, 2018

Decided: December 21, 2018

Before AGEE, THACKER, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Matthew Oliver Alford, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Matthew Oliver Alford seeks to appeal the district court's order construing his 28 U.S.C. § 2241 (2012) petition as his second 28 U.S.C. § 2254 (2012) petition and dismissing it for lack of authorization from this Court pursuant to 28 U.S.C. § 2244(b)(3) (2012). The order 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 Alford 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