

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 20-6148**

---

JOE LEE FULGHAM,

Petitioner - Appellant,

v.

UNKNOWN,

Respondent - Appellee.

---

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Arenda L. Wright Allen, District Judge. (2:19-cv-00432-AWA-DEM)

---

Submitted: May 28, 2020

Decided: June 2, 2020

---

Before DIAZ and THACKER, Circuit Judges, and TRAXLER, Senior Circuit Judge.

---

Dismissed by unpublished per curiam opinion.

---

Joe Lee Fulgham, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joe Lee Fulgham seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing Fulgham's 28 U.S.C. § 2254 (2018) petition for failure to exhaust state remedies. 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) (2018). 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) (2018). Because the district court denied relief on procedural grounds, Fulgham 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. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Fulgham has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Fulgham's motion for appointment of counsel, 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*