

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6506

JIMMY GALLISHAW, JR.,

Petitioner - Appellant,

v.

WARDEN OF LEE CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

STATE OF SOUTH CAROLINA,

Respondent.

Appeal from the United States District Court for the District of South Carolina, at Beaufort.
Sherri A. Lydon, District Judge. (9:18-cv-03253-SAL)

Submitted: March 19, 2021

Decided: April 1, 2021

Before MOTZ, RICHARDSON, and RUSHING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jimmy Gallishaw, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jimmy Gallishaw, Jr., seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on Gallishaw's 28 U.S.C. § 2254 petition. 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). 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). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists could find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 137 S. Ct. 759, 773-74 (2017). 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. *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 Gallishaw has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Gallishaw's motion to remand and 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