

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-6184

SPENCER STRATTON, by and through biological mother, natural guardian, next friend, guardian ad litem; KATHY STRATTON,

Petitioners - Appellants,

v.

STATE OF NORTH CAROLINA; NORTH CAROLINA DEPARTMENT OF HEALTH & HUMAN SERVICES; MECKLENBURG COUNTY DEPARTMENT OF SOCIAL SERVICES; MECKLENBURG COUNTY CLERK OF COURT; KEVIN PAUL OLIVER, CEO of Phoenix Counseling Center,

Respondents - Appellees.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Martin K. Reidinger, Chief District Judge. (3:20-cv-00455-MR)

Submitted: March 30, 2022

Decided: July 15, 2022

Before GREGORY, Chief Judge, and NIEMEYER and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Spencer Stratton, Kathy Stratton, Appellants Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kathy Stratton (“Stratton”) seeks to appeal the district court’s order dismissing the pro se 28 U.S.C. § 2254 petition that she filed on behalf of her son, Spencer Stratton.* 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 Stratton has not made the requisite showing. Accordingly, we deny the motion for 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

* Because Stratton lacked standing to bring this pro se petition on behalf of her son, *see Myers v. Loudoun Cnty. Pub. Schs.*, 418 F.3d 395, 400-01 (4th Cir. 2005); *Hamdi v. Rumsfeld*, 294 F.3d 598, 603 (4th Cir. 2002), the district court’s dismissal was, necessarily, a dismissal without prejudice, *see Ali v. Hogan*, 26 F.4th 587, 600 (4th Cir. 2022).