

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 21-6342**

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GREGORY VELEZ,

Petitioner - Appellant,

v.

RANDALL WILLIAMS, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Beaufort.  
J. Michelle Childs, District Judge. (9:19-cv-03022-JMC)

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Submitted: October 27, 2021

Decided: December 13, 2021

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

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Dismissed by unpublished per curiam opinion.

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Elizabeth Anne Franklin-Best, ELIZABETH FRANKLIN-BEST, P.C., Columbia, South Carolina, for Appellant. William Edgar Salter, III, Assistant Attorney General, OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gregory Velez seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on Velez'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 Velez has not made the requisite showing. With respect to Velez's claim that he received a harsher sentence than did his codefendants because he exercised his right to go to trial, the district court's procedural ruling that this claim was procedurally defaulted was debatable or wrong. However, Velez has failed to demonstrate that the petition states a debatable claim of the denial of a constitutional right. 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*