

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-7052

JAMES GREGORY ARMISTEAD,

Petitioner - Appellant,

v.

MR. HERRING, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. James C. Dever III, District Judge. (5:20-hc-02145-D)

Submitted: November 9, 2021

Decided: December 2, 2021

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

Dismissed by unpublished per curiam opinion.

James G. Armistead, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Gregory Armistead seeks to appeal the district court’s post-judgment order denying his motion for leave to file an amended memorandum of law and evidence after the district court dismissed his 28 U.S.C. § 2254 petition as successive.* 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 Armistead has not made the requisite showing. Accordingly, we deny his motion for a certificate of appealability, deny his motions for recusal and transcripts at government expense, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions

* We previously denied a certificate of appealability and dismissed Armistead’s appeal of the district court’s order dismissing his § 2254 petition as successive. *See Armistead v. Herring*, 845 F. App’x 267 (4th Cir. 2021) (No. 21-6016).

are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED