

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-7570

DENVER W. BLEVINS,

Plaintiff - Appellant,

v.

KENNETH DIGGS, Supt; STATE OF NORTH CAROLINA,

Defendants - Appellees.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Martin K. Reidinger, Chief District Judge. (5:21-cv-00146-MR)

Submitted: April 26, 2022

Decided: April 29, 2022

Before AGEE and THACKER, Circuit Judges, and FLOYD, Senior Circuit Judge.

Dismissed in part and affirmed in part by unpublished per curiam opinion.

Denver W. Blevins, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Denver W. Blevins, a North Carolina prisoner, seeks to appeal the district court's order construing his 28 U.S.C. § 2241 petition as both a successive 28 U.S.C. § 2254 petition and 42 U.S.C. § 1983 complaint. To the extent Blevins appeals the dismissal of his § 2241 claims as an unauthorized, successive § 2254 petition, the order is not appealable unless a circuit justice or judge issues a certificate of appealability. 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 Blevins has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal as to these claims.

To the extent Blevins appeals the denial of his § 1983 claims related to the conditions of his confinement, we affirm for the reasons stated by the district court. *Blevins v. Diggs*, No. 5:21-cv-00146-MR (W.D.N.C. Oct. 27, 2021). We deny Blevins' motion for default judgment and 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 IN PART,
AFFIRMED IN PART*