

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-6851

MARTY TARRELL GASTON,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of North Carolina, at
Charlotte. Martin K. Reidinger, Chief District Judge. (3:22-cv-00015-MR)

Submitted: December 20, 2022

Decided: December 27, 2022

Before NIEMEYER and QUATTLEBAUM, Circuit Judges, and FLOYD, Senior Circuit
Judge.

Dismissed by unpublished per curiam opinion.

Marty Tarrell Gaston, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marty Tarrell Gaston seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 petition as an unauthorized, successive § 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, as here, 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 Gaston has not made the requisite showing. 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