

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-7117

JOSEPH H. GIBBS,

Petitioner - Appellant,

v.

WARDEN OF BROAD RIVER CORRECTIONAL INSTITUTION,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at
Charleston. Joseph Dawson, III, District Judge. (2:21-cv-03206-JD)

Submitted: March 28, 2024

Decided: April 2, 2024

Before KING and RUSHING, Circuit Judges, and MOTZ, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Joseph Hugo Gibbs, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joseph H. Gibbs, a South Carolina prisoner, seeks to appeal the district court's order accepting the magistrate judge's recommendation, construing Gibbs' 28 U.S.C. § 2241 petition as a 28 U.S.C. § 2254 petition, and dismissing the petition as successive and unauthorized. Gibbs also seeks to appeal the district court's order denying reconsideration. The orders are 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 Gibbs 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