

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-7189

ELIJAH E. PACHECO,

Petitioner - Appellant,

v.

HEATHER WARREN, Magistrate,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Martin K. Reidinger, Chief District Judge. (5:23-cv-00153-MR)

Submitted: April 18, 2024

Decided: April 22, 2024

Before WILKINSON, NIEMEYER, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Elijah E. Pacheco, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Elijah E. Pacheco, a state pretrial detainee, seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2241 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*, 580 U.S. 100, 115-17 (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 Pacheco has not made the requisite showing. Pacheco does not challenge on appeal the district court's dispositive determination that he failed to exhaust state remedies, and we find that Pacheco has not engaged in one complete round of North Carolina's appellate review process. 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