

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6924

JEFFREY WHITLOW,

Petitioner - Appellant,

v.

BRICK TRIPP; UNITED STATES OF AMERICA; ERIC H. HOLDER, JR.,
United States Attorney General; UNITED STATES CONGRESS;
EASTERN DISTRICT OF NORTH CAROLINA, Western Division;
DISTRICT OF COLUMBIA; RONALD C. MACHEN, United States
Attorney,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Terrence W. Boyle,
District Judge. (5:13-hc-02251-B0)

Submitted: October 20, 2015

Decided: October 28, 2015

Before KING, KEENAN, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jeffrey Whitlow, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jeffrey Whitlow, a District of Columbia prisoner, seeks to appeal the district court's order dismissing his 28 U.S.C. § 2241 (2012) 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) (2012).¹ 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) (2012). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). 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. Slack, 529 U.S. at 484-85.

¹ Because Whitlow was convicted in a District of Columbia court, he is required to obtain a certificate of appealability in order to appeal the denial of his § 2241 petition. See Madley v. United States Parole Comm'n, 278 F.3d 1306 (D.C. Cir. 2002).

We have independently reviewed the record and conclude that Whitlow has not made the requisite showing.² Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, 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

² In the absence of any assertion, much less showing, by Whitlow on remand that D.C. Code § 23-110 (Supp. 2014) is inadequate or ineffective to test the legality of his detention, see Whitlow v. Tripp, 587 F. App'x 74 (4th Cir. 2014) (No. 14-6998) (remanding with instructions to dismiss for lack of jurisdiction unless Whitlow demonstrated that he has met the requirements of § 23-110 allowing a federal court to entertain his § 2241 petition), the district court lacked jurisdiction to entertain Whitlow's § 2241 petition. D.C. Code § 23-110(g) (Supp. 2014).