

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-6209

DAVID SCHNEBELEN,

Petitioner - Appellant,

v.

ERIK A. HOOKS, Secretary of Department of Public Safety, this respondent was initially named as other Kenneth Beaver; JOSHUA STEIN, North Carolina Attorney General; MIKE SLAGLE, Mountain View CI Superintendent,

Respondents - Appellees.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Frank D. Whitney, District Judge. (1:18-cv-00281-MR)

Submitted: September 29, 2022

Decided: December 7, 2022

Before AGEE, THACKER, and QUATTLEBAUM, Circuit Judges.

Dismissed by unpublished per curiam opinion.

David Schnebelen, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Schnebelen seeks to appeal the district court's orders denying his 28 U.S.C. § 2254 petition and denying his Fed. R. Civ. P. 59(e) motion. 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 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 Schnebelen 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