

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-6308**

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ERNEST DWIGHT PERRY,

Petitioner - Appellant,

v.

WARDEN BROAD RIVER CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

STATE OF SOUTH CAROLINA,

Respondent.

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Appeal from the United States District Court for the District of South Carolina, at Orangeburg. Timothy M. Cain, District Judge. (5:10-cv-02346-TMC)

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Submitted: June 19, 2012

Decided: August 7, 2012

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Before WYNN and DIAZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Ernest Dwight Perry, Appellant Pro Se. Brendan McDonald, OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Donald John Zelenka, Deputy Assistant Attorney General, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ernest Dwight Perry seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2006) 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) (2006). 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) (2006). 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.

We have independently reviewed the record and conclude that Perry 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 the court and argument would not aid the decisional process.

DISMISSED