

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6363

LEWIS WAYNE FIELDER,

Petitioner - Appellant,

v.

ROBERT M. STEVENSON, III, Warden, Broad River Correctional
Institution,

Respondent - Appellee.

Appeal from the United States District Court for the District of
South Carolina, at Charleston. J. Michelle Childs, District
Judge. (2:12-cv-00412-JMC)

Submitted: September 25, 2013

Decided: September 27, 2013

Before MOTZ, KING, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jeremy A. Thompson, LAW OFFICE OF JEREMY A. THOMPSON, LLC,
Columbia, South Carolina, for Appellant. Donald John Zelenka,
Senior Assistant Attorney General, Melody Jane Brown, Assistant
Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lewis Wayne Fielder seeks to appeal the district court's orders granting Respondent's motion to strike Fielder's affidavit seeking to enhance the state court record, and accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2254 (2006) petition.

The orders are not appealable unless a circuit justice or judge issues a certificate of appealability. 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 Fielder has not made the requisite showing. We further conclude that the district court did not abuse its discretion in

striking Fielder's affidavit. See Landrum v. Mitchell, 625 F.3d 905, 923-24 (6th Cir. 2010) (standard of review); Ward v. Hall, 592 F.3d 1144, 1162 (11th Cir. 2010) (same); Eckstein v. Kingston, 460 F.3d 844, 852 (7th Cir. 2006) (same). 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