

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-7141

FURMAN THOMPSON,

Petitioner - Appellant,

v.

WARDEN OF MCCORMICK CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

DIRECTOR JON OZMINT,

Respondent.

Appeal from the United States District Court for the District of South Carolina, at Anderson. David C. Norton, District Judge. (8:10-cv-02103-DCN)

Submitted: January 31, 2012

Decided: February 2, 2012

Before NIEMEYER, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Furman Thompson, Appellant Pro Se. Donald John Zelenka, Deputy Assistant Attorney General, James Anthony Mabry, Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Furman Thompson seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2254 (2006) petition for failure to properly exhaust his claims in state court. 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. In his informal brief, Thompson has failed to address the district court's dispositive finding that the claims raised in his § 2254 petition were not properly exhausted. Therefore, Thompson has forfeited appellate review of the district court's ruling. See 4th Cir. R. 34(b). Accordingly, we deny Thompson's

motion for 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