

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6795

JOE LOUIS BROWN, JR.,

Petitioner - Appellant,

v.

DENNIS DANIELS,

Respondent - Appellee,

and

ROBERT LEWIS,

Respondent.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Terrence W. Boyle,
District Judge. (5:12-hc-02145-BO)

Submitted: September 24, 2013 Decided: September 27, 2013

Before NIEMEYER and THACKER, Circuit Judges, and HAMILTON,
Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Joe Louis Brown, Jr., Appellant Pro Se. Mary Carla Hollis,
Assistant Attorney General, Raleigh, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joe Louis Brown, Jr., seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2006) 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) (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 Brown has not made the requisite showing. Accordingly, although we grant leave to proceed in forma pauperis, 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