UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7540

JOSHUA ANDREW MONROE,

Petitioner - Appellant,

v.

WARDEN LEROY CARTLEDGE,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Richard Mark Gergel, District Judge. (6:14-cv-03565-RMG)

Submitted: December 17, 2015 Decided: December 22, 2015

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

Dismissed by unpublished per curiam opinion.

Joshua Andrew Monroe, Appellant Pro Se. Donald John Zelenka, Senior Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joshua Andrew Monroe seeks to appeal the district court's order accepting the recommendation of the magistrate judge, as modified, and denying relief on his 28 U.S.C. § 2254 (2012) 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) (2012). 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) (2012). 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 Monroe has not made the requisite showing.* Accordingly, we deny

* We note that the timely filing of objections to a magistrate judge's recommendation is necessary to preserve (Continued)

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

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appellate review of the substance of that recommendation. United States v. Midgette, 478 F.3d 616, 621–22 (4th Cir. 2007); Wright v. Collins, 766 F.2d 841, 845–46 (4th Cir. 1985); see also Thomas v. Arn, 474 U.S. 140 (1985). Because Monroe, a pro se litigant, received notice of the consequences of failing to object and yet failed to object to the magistrate judge's rejection of his claim that plea counsel was ineffective for failing to pursue an alibi defense, Monroe has waived appellate review of this claim. Midgette, 478 F.3d at 621-22.