

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 16-6310**

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CARL NELSON, II,

Petitioner - Appellant,

v.

DAVID BALLARD, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the Northern  
District of West Virginia, at Elkins. John Preston Bailey,  
District Judge. (2:14-cv-00086-JPB-RWT)

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Submitted: July 21, 2016

Decided: July 22, 2016

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Before SHEDD, AGEE, and WYNN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Carl Nelson, II, Appellant Pro Se. Derek A. Knopp, Laura Young,  
OFFICE OF THE ATTORNEY GENERAL, Charleston, West Virginia, for  
Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Carl Nelson, II, seeks to appeal the district court's order accepting the recommendation of the magistrate judge 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 Nelson has not made the requisite showing. Accordingly, we deny Nelson'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 this court and argument would not aid the decisional process.

DISMISSED