

FILED: December 14, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-6329
(8:20-cv-00126-JD)

TERRON GERHARD DIZZLEY

Petitioner - Appellant

v.

WARDEN STEPHON

Respondent - Appellee

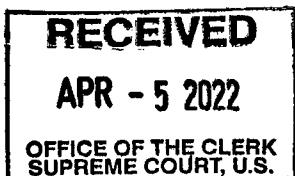
O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Thacker, Judge Richardson, and Senior Judge Traxler.

For the Court

/s/ Patricia S. Connor, Clerk



UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 21-6329

TERRON GERHARD DIZZLEY,

Petitioner - Appellant,

v.

WARDEN STEPHON,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Anderson. Joseph Dawson, III, District Judge. (8:20-cv-00126-JD)

Submitted: September 14, 2021

Decided: September 20, 2021

Before THACKER and RICHARDSON, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Terron Gerhard Dizzley, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Terron Gerhard Dizzley seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing without prejudice Dizzley's 28 U.S.C. § 2254 petition for failure to exhaust his state court remedies. 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). 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). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists could find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 137 S. Ct. 759, 773-74 (2017). 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. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Dizzley has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also grant Dizzley's motion to amend his informal brief and deny his remaining motions. 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