

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6436

JEFFERY HARLEY,

Petitioner - Appellant,

versus

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS; GARY
MAYNARD, Director; CHARLIE CONDON, Attorney
General of the State of South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Anderson. Cameron M. Currie, District Judge.
(CA-02-1118-8-22-BI)

Submitted: May 15, 2003

Decided: May 28, 2003

Before LUTTIG and KING, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Jeffery Harley, Appellant Pro Se. Roy F. Laney, RILEY, POPE &
LANEY, L.L.C., Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Jeffery Harley seeks to appeal the district court's order accepting the magistrate judge's report and recommendation to deny relief on Harley's habeas petition, in which Harley alleged the South Carolina Department of Corrections miscalculated his sentence. Harley raised this claim under 28 U.S.C. § 2254 (2000). The district court reviewed Harley's claim under 28 U.S.C. § 2241 (2000). The district court entered an order denying Harley relief based on his failure to exhaust state remedies.

Harley cannot appeal this order unless a circuit judge or justice issues a certificate of appealability, and 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) (2000). A habeas petitioner meets this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, ___ U.S. ___, 123 S. Ct. 1029, 1039 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir.), cert. denied, 535 U.S. 941 (2001). We have independently reviewed the record and conclude Harley has not made the requisite showing. Accordingly, 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 the court and argument would not aid the decisional process.

DISMISSED