

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6544

FRANK M. GASTER,

Petitioner - Appellant,

versus

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS;
CHARLES CONDON, Attorney General,

Respondents - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Henry M. Herlong, Jr., District Judge. (CA-02-2708-2-20AJ)

Submitted: June 19, 2003

Decided: June 25, 2003

Before NIEMEYER, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Frank M. Gaster, Appellant Pro Se. Donald John Zelenka, Chief Deputy Attorney General, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Frank M. Gaster, who was civilly committed under the South Carolina Sexually Violent Predator Act, seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2000) petition, properly construed as a 28 U.S.C. § 2241 (2000) petition.* We have independently reviewed the record and conclude that Gaster has not made a substantial showing of the denial of a constitutional right. See Miller-El v. Cockrell, 123 S. Ct. 1029 (2003). Accordingly, we deny a certificate of appealability and dismiss the appeal. See 28 U.S.C. § 2253(c) (2000). 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

* Although Gaster originally filed the petition under 28 U.S.C. § 2254, because he challenged the constitutionality of a state civil commitment, the magistrate judge properly characterized it as a petition under 28 U.S.C. § 2241.