

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6580**

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ROSS K. BRAZELL,

Petitioner - Appellant,

versus

GARY MAYNARD, Director, SCDC; CHARLES CONDON,  
Attorney General of the State of South  
Carolina,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Florence. Henry M. Herlong, Jr., District  
Judge. (CA-02-503-20-4BH)

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Submitted: October 1, 2003

Decided: March 22, 2004

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

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Dismissed by unpublished per curiam opinion.

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Ross K. Brazell, Appellant Pro Se. Donald John Zelenka, Chief  
Deputy Attorney General, Columbia, South Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Ross K. Brazell seeks to appeal the district court's order adopting a magistrate judge's recommendation and denying relief on his petition filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken to this court from the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). "A certificate of appealability may issue . . . only if the applicant has made a substantial showing of a constitutional right." 28 U.S.C. § 2253(c)(2). We have independently reviewed the record and conclude that Brazell has not made such a showing. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). Accordingly, we deny Brazell'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 the court and argument would not aid the decisional process.

DISMISSED