

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-7570**

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THOMAS LOWERY,

Petitioner - Appellant,

versus

GARY D. MAYNARD, Director of 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 Columbia. Terry L. Wooten, District Judge.  
(CA-02-3205-25BC-3)

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Submitted: December 18, 2003

Decided: January 16, 2004

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Before LUTTIG, SHEDD, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Thomas Lowery, Appellant Pro Se. Donald John Zelenka, Chief Deputy  
Attorney General, Derrick K. McFarland, OFFICE OF THE ATTORNEY  
GENERAL OF SOUTH CAROLINA, 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Unpublished opinions are not binding precedent in this circuit.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:

Thomas Lowery seeks to appeal the district court's order adopting the magistrate judge's recommendation to grant the Government summary judgment and deny his 28 U.S.C. § 2254 (2000) petition. Lowery 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 appellant 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, 537 U.S. 322, 326 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude Lowery 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