

ON REHEARING

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7877

DONALD EUGENE MEDLIN,

Petitioner - Appellant,

versus

JAY CLARK,

Respondent - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. Paul Trevor Sharp, Magistrate Judge. (CA-02-393-1)

Submitted: July 21, 2004

Decided: August 26, 2004

Before LUTTIG, WILLIAMS, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Bruce Tracy Cunningham, Jr., THE LAW OFFICE OF BRUCE T. CUNNINGHAM, JR., Southern Pines, North Carolina, for Appellant. Clarence Joe DelForge, III, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Donald Eugene Medlin seeks to appeal the magistrate judge's order denying relief on his petition filed under 28 U.S.C. § 2254 (2000).^{*} An appeal may not be taken from the final order in a § 2254 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). 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 prisoner satisfies 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, 336 (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 that Medlin 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

^{*}This case was decided by a magistrate judge upon consent of the parties under 28 U.S.C. § 636(c)(1) (2000).