

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6320

CRAIG W. JACKSON,

Petitioner - Appellant,

versus

STATE OF SOUTH CAROLINA; HENRY DARGAN
MCMASTER,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Anderson. Terry L. Wooten, District Judge.
(CA-03-1105)

Submitted: July 19, 2004

Decided: July 30, 2004

Before WIDENER, WILKINSON, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Craig W. Jackson, Appellant Pro Se. Derrick K. McFarland, OFFICE
OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South
Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Craig W. Jackson seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C. § 2254 (2000). The order is not appealable 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).

In his federal habeas petition, Jackson raised four claims. With respect to the two claims the district court dismissed as procedurally barred based upon the report of the magistrate judge, we conclude that although they are not procedurally barred, the claims are meritless. The district court concluded that because Jackson raised these claims only in his petition for post-conviction relief before a circuit court in South Carolina ("PCR court"), Jackson's claims were both unexhausted and procedurally defaulted. While we conclude the claims were not procedurally barred, State v. McKennedy, 559 S.E.2d 850, 852-54

(S.C. 2002), they were nevertheless properly subject to dismissal. Jackson has failed to show that the state PCR court's decision on these claims was contrary to, or an unreasonable application of, federal law as determined by the Supreme Court, or an unreasonable application of the facts in light of the evidence. See 28 U.S.C. § 2254(d).

With respect to Jackson's remaining claims, we have independently reviewed the record and conclude that Jackson has not made the requisite showing to be entitled to a certificate of appealability. 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