

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6993**

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LARRY EDWARD HENDRICKS,

Petitioner - Appellant,

versus

COLIE RUSHTON, Warden; HENRY MCMASTER,  
Attorney General of South Carolina,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Columbia. David C. Norton, District Judge.  
(CA-03-3201-18BC-3)

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Submitted: August 25, 2004

Decided: September 10, 2004

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Before WIDENER and DUNCAN, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Larry Edward Hendricks, Appellant Pro Se. Donald John Zelenka,  
Chief Deputy Attorney General, John William McIntosh, Assistant  
Attorney General, Samuel Creighton Waters, 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Unpublished opinions are not binding precedent in this circuit.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:

Larry Edward Hendricks seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his petition under 28 U.S.C. § 2254 (2000), and denying his motion for reconsideration under Federal Rule of Civil Procedure 59(e). An appeal may not be taken from the final order in a habeas corpus 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 for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). As to claims dismissed by a district court solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir. 2001) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). We have independently reviewed the record and conclude that Hendricks has not satisfied either standard. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). 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