

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7615

MARVIN LOVEJOY,

Petitioner - Appellant,

versus

STATE OF SOUTH CAROLINA; HENRY MCMASTER,

Respondents - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Anderson. Margaret B. Seymour, District Judge. (CA-03-3553-8-24BI)

Submitted: March 30, 2005

Decided: April 20, 2005

Before NIEMEYER, WILLIAMS, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Marvin Lovejoy, 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.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Marvin Lovejoy, a state prisoner, seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2254 (2000) petition. This 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 the district court's assessment of his constitutional claims is 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, 336-38 (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 Lovejoy has not made the requisite showing. Accordingly, we deny leave to proceed in forma pauperis, deny a certificate of appealability, and dismiss the appeal. We also deny Lovejoy's motions to amend judgment and to set aside his sentence and conviction. 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