

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 04-7941**

---

DULAINE LOTHARP,

Petitioner - Appellant,

versus

NORA HUNT; ROY COOPER, Attorney General for  
State of North Carolina,

Respondents - Appellees.

---

Appeal from the United States District Court for the Western  
District of North Carolina, at Charlotte. Graham C. Mullen, Chief  
District Judge. (CA-03-568)

---

Submitted: June 22, 2005

Decided: July 7, 2005

---

Before WILKINSON, KING, and DUNCAN, Circuit Judges.

---

Dismissed by unpublished per curiam opinion.

---

Noell Peter Tin, TIN, FULTON, GREENE & OWEN, P.L.L.C., Charlotte,  
North Carolina, for Appellant. Clarence Joe DelForge, III, NORTH  
CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for  
Appellees.

---

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Dulaine Lothrap,\* a North Carolina prisoner, seeks to appeal the district court'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 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 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). Lothrap argues, by counsel, that the district court incorrectly concluded that he had failed to exhaust his present federal claim under In re Winship, 397 U.S. 358 (1970), in state court.

We have independently reviewed the record, including the detailed record of the state court appellate proceedings, and we conclude that Lothrap has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the

---

\*It appears appellant's name is actually spelled "Lotharp." We have maintained the spelling under which the case was docketed in the district court.

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