

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6395

CHARLES EDWARD AVERY,

Petitioner - Appellant,

versus

E. RICHARD BAZZLE, Warden; HENRY DARGAN
MCMASTER, Attorney General for South Carolina,

Respondents - Appellees.

No. 05-6539

CHARLES EDWARD AVERY,

Petitioner - Appellant,

versus

E. RICHARD BAZZLE, Warden; HENRY DARGAN
MCMASTER, Attorney General for South Carolina,

Respondents - Appellees.

Appeals from the United States District Court for the District of
South Carolina, at Greenville. G. Ross Anderson, Jr., District
Judge. (CA-05-180-GRA-6)

Submitted: August 10, 2005

Decided: August 22, 2005

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

Dismissed by unpublished per curiam opinion.

Charles Edward Avery, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

In No. 05-6395, Charles Avery seeks to appeal the district court's order accepting a magistrate judge's recommendation to dismiss his 28 U.S.C. § 2254 (2000) petition without prejudice for failure to exhaust state remedies. In No. 05-6539, Avery seeks to appeal the district court's order denying his motion for a certificate of appealability. 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 for claims addressed by a district court 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 both that the district court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 338 (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 Avery has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeals. 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