

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6548

JAMES ERVIN MCGEE, JR.,

Petitioner - Appellant,

versus

JONATHAN OZMINT; COLIE RUSHTON; HENRY DARGAN
MCMASTER,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Anderson. Margaret B. Seymour, District Judge.
(CA-04-1377-MBS-8)

Submitted: August 18, 2005

Decided: August 25, 2005

Before WIDENER, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James Ervin McGee, Jr., Appellant Pro Se. Donald John Zelenka,
Chief Deputy Attorney General, William Edgar Salter, III, 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Unpublished opinions are not binding precedent in this circuit.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:

James Ervin McGee, Jr., seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his petition filed under 28 U.S.C. § 2254 (2000) as untimely. 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 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). We have independently reviewed the record and conclude that McGee has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal as untimely. 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