

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6236

GARY PHILLIP BROGDON,

Petitioner - Appellant,

versus

CHARLES M. CONDON, Attorney General of the
State of South Carolina,

Respondent - Appellee.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. C. Weston Houck, Senior District
Judge. (0:02-cv-00483-CWH)

Submitted: May 18, 2006

Decided: May 31, 2006

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

Dismissed by unpublished per curiam opinion.

Gary Phillip Brogdon, 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
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Gary Phillip Brogdon seeks to appeal the district court's order adopting the recommendation of the magistrate judge and granting summary judgment to Respondents and dismissing as untimely Brogdon's petition filed under 28 U.S.C. § 2254 (2000). The 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 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, 336-38 (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 Brogdon has not made the requisite showing. 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