

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6449

ARTHUR FOSTER,

Petitioner - Appellant,

versus

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

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. G. Ross Anderson, Jr., District
Judge. (6:05-cv-00620-GRA)

Submitted: September 20, 2006

Decided: October 17, 2006

Before WILKINSON, MOTZ, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Arthur Foster, Appellant Pro Se. Donald John Zelenka, Chief Deputy
Attorney General, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Arthur Foster seeks to appeal the district court's order adopting the magistrate judge's recommendation to deny relief on his 28 U.S.C. § 2254 (2000) petition and finding that equitable tolling was not warranted. 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 or wrong and that any dispositive procedural ruling by the district court is likewise debatable. 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 Foster 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