

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 06-6747**

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GREGORY THEOPHILUS EVANS,

Petitioner - Appellant,

versus

RAYMOND SMITH, Superintendent,

Respondent - Appellee.

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Appeal from the United States District Court for the Middle  
District of North Carolina, at Durham. James A. Beaty, Jr.,  
District Judge. (1:05-cv-00663-WWD)

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Submitted: September 28, 2006

Decided: October 10, 2006

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Before NIEMEYER, TRAXLER, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Gregory Theophilus Evans, Appellant Pro Se. Mary Carla Hollis,  
NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for  
Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Gregory Theophilus Evans seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2254 (2000) petition. 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 any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. 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, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Evans has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, 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