

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7384

MEJAY T. MCKINNEY,

Petitioner - Appellant,

versus

COLIE L. RUSHTON, Warden; HENRY DARGAN
MCMASTER, Attorney General of the State of
South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Florence. Margaret B. Seymour, District Judge.
(4:05-cv-03147-MBS)

Submitted: November 13, 2006

Decided: December 13, 2006

Before NIEMEYER, KING, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Mejay T. McKinney, Appellant Pro Se. Donald John Zelenka, Samuel
Creighton Waters, OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA,
Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mejay T. McKinney seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing as untimely 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 McKinney has not made the requisite showing. Accordingly, we deny McKinney's motion for a certificate of appealability, dismiss the appeal, and deny McKinney's motion to appoint counsel. 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