

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 06-7595

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JUNIOUS LEE RHUE, JR.,

Petitioner - Appellant,

versus

THOMAS R. CARROLL,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (5:05-hc-00592-BO)

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Submitted: January 31, 2007

Decided: June 15, 2007

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Before MOTZ, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Junious Lee Rhue, Jr., Appellant Pro Se. Clarence Joe DelForge, III, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Junious Lee Rhue, Jr., seeks to appeal the district court's order and judgment denying as untimely his 28 U.S.C. § 2254 (2000) petition and requests the appointment of counsel on appeal. 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 Rhue has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny the motion to appoint counsel and dismiss. 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