

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7889

MARK MELTON,

Petitioner - Appellant,

versus

COLIE RUSHTON, Warden; HENRY MCMASTER,
Attorney General,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Charleston. Cameron McGowan Currie, District
Judge. (2:06-cv-01894-CMC)

Submitted: March 12, 2007

Decided: March 27, 2007

Before WILKINSON, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Mark Melton, Appellant Pro se

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mark C. Melton seeks to appeal the district court's order partially accepting the recommendation of the magistrate judge and dismissing as untimely Melton's 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 Melton 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