

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-6124**

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JULIAN EDWARD ROCHESTER,

Petitioner - Appellant,

versus

SALLIE C. SMITH; STATE OF SOUTH CAROLINA;  
OCONEE COUNTY,

Respondents - Appellees,

and

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

Respondent.

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Appeal from the United States District Court for the District of South Carolina, at Charleston. Henry M. Herlong, Jr., District Judge. (2:06-3012-HMH-RSC)

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Submitted: June 29, 2007

Decided: July 18, 2007

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Before NIEMEYER and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Julian Edward Rochester, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Julian Edward Rochester 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 Rochester has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny the motion for leave to appeal 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. The motion to compel the district court to rule on an application to proceed in forma pauperis is denied.

DISMISSED