

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6265

MARTIN RODRIGUEZ,

Petitioner - Appellant,

versus

JONATHAN E. OZMINT, SCDC Director;
HENRY MCMASTER, Attorney General for
South Carolina; TIM RILEY,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. David C. Norton, District Judge.
(0:06-cv-00631-DCN)

Submitted: September 12, 2007 Decided: September 20, 2007

Before WILKINSON, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Martin Rodriguez, Appellant Pro Se. Donald John Zelenka, William
Edgar Salter, III, OFFICE OF THE ATTORNEY GENERAL OF SOUTH
CAROLINA, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Martin Rodriguez 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 Rodriguez 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