

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6621

MELVIN POUGH,

Petitioner - Appellant,

versus

JONATHAN E. OZMINT; STAN BURTT, Warden, Liber
Correctional Institution; HENRY 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 Charleston. David C. Norton, District Judge.
(2:06-cv-03279-DCN)

Submitted: August 23, 2007

Decided: August 29, 2007

Before WILLIAMS, Chief Judge,* and WILKINS and HAMILTON, Senior
Circuit Judges.

Dismissed by unpublished per curiam opinion.

Melvin Pough, Appellant Pro Se. William Edgar Salter, III, OFFICE
OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South
Carolina, for Appellee.

*Chief Judge Williams was a member of the original panel but
did not participate in the decision. This opinion is filed by a
quorum of the panel pursuant to 28 U.S.C. § 46(d).

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Melvin Pough 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 Pough 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