

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-6876**

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RANDY RHYNE,

Petitioner - Appellant,

v.

WARDEN, TYGER RIVER CORRECTIONAL INSTITUTION,

Respondent - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Florence. Henry M. Herlong, Jr., District Judge. (4:07-cv-03147-HMH)

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Submitted: October 29, 2008

Decided: November 17, 2008

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Before WILKINSON, TRAXLER, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Randy Rhyne, Appellant Pro Se. Melody Jane Brown, Assistant Attorney General, Donald John Zelenka, Deputy Assistant Attorney General, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Randy Rhyne 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 Rhyne has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Rhyne's motions for a transcript, for appointment of counsel, and to appoint an investigator. 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