

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7318

ANTHONY DARON SCHENCK,

Petitioner - Appellant,

versus

RICK JACKSON; MICHAEL F. EASLEY, Attorney
General of North Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the Western
District of North Carolina, at Asheville. Graham C. Mullen, Chief
District Judge. (CA-00-119-1-MU)

Submitted: February 20, 2003

Decided: February 26, 2003

Before LUTTIG, MOTZ, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Anthony Daron Schenck, Appellant Pro Se. Clarence Joe DelForge,
III, OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh,
North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Anthony D. Schenck, a state prisoner, seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken from the final order in a habeas corpus proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). When, as here, a district court dismisses a § 2254 petition solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 534 U.S. 941 (2001). We have reviewed the record and conclude for the reasons stated by the district court that Schenck has not made the requisite showing. See Schenck v. Jackson, No. CA-00-119-1-MU (W.D.N.C. filed June 10, 2002; entered June 11, 2002). 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