

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7869

MARK PRESTON PIERCE,

Petitioner - Appellant,

versus

SHERWOOD R. MCCABE,

Respondent - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. Frank W. Bullock, Jr., District Judge. (CA-02-341)

Submitted: April 3, 2003

Decided: April 29, 2003

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

Dismissed by unpublished per curiam opinion.

Mark Preston Pierce, Appellant Pro Se. Sandra Wallace-Smith, Assistant Attorney General, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Mark Preston Pierce, a state prisoner, seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2000) petition. 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. See 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000); see Rose v. Lee, 252 F.3d 676, 683 (4th Cir.), cert. denied, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that Pierce has not made the requisite showing. See Miller-El v. Cockrell, 123 S. Ct. 1029 (2003). Accordingly, we deny a certificate of appealability, dismiss the appeal, and deny Pierce's motions seeking in forma pauperis status and leave to file a formal brief as moot. 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