

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7918

JAMES F. SCHNEIDER,

Petitioner - Appellant,

versus

CALVIN ANTHONY; STATE OF SOUTH CAROLINA; HENRY
MCMASTER, Attorney General of South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. R. Bryan Harwell, District Judge.
(CA-03-3197)

Submitted: March 24, 2005

Decided: March 30, 2005

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

Dismissed by unpublished per curiam opinion.

James P. Schneider, Appellant Pro Se. Derrick K. McFarland, OFFICE
OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South
Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

James F. Schneider, a state prisoner, seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying his 28 U.S.C. § 2254 (2000) petition as untimely. This order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1); see Reid v. Angelone, 369 F.3d 363, 368-69, 374 n.7 (4th Cir. 2004). 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 the district court's assessment of his constitutional claims is debatable and that any dispositive procedural findings by the district court are also debatable or wrong. See 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 (4th Cir. 2001).

We have independently reviewed the record and conclude that Schneider has not shown the district court's finding of untimeliness to be debatable or wrong.* Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument, because the facts and legal contentions are

*Schneider does not challenge the court's finding of untimeliness on appeal.

adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED