

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-6026**

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ERNEST EDWARD SIMPSON,

Petitioner - Appellant,

versus

S. A. HOLENCIK, Acting Warden; ATTORNEY  
GENERAL FOR THE STATE OF MARYLAND,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
Maryland, at Baltimore. William M. Nickerson, Senior District  
Judge. (CA-04-2939)

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Submitted: April 28, 2005

Decided: May 5, 2005

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Before WILLIAMS, KING, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Ernest Edward Simpson, Appellant Pro Se. Ann Norman Bosse, OFFICE  
OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for  
Appellees.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Ernest Edward Simpson seeks to appeal the district court's order dismissing as untimely his petition filed under 28 U.S.C. § 2254 (2000), and the court's order denying his motion filed under Fed. R. Civ. P. 59(e). The orders are 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 the district court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural rulings by the district court also are 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, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Simpson has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We deny Simpson's motion for preparation of a transcript at government expense and 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