

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 06-7650**

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CHARLES LOMAX,

Petitioner - Appellant,

versus

STATE OF SOUTH CAROLINA; ATTORNEY GENERAL OF  
THE STATE OF SOUTH CAROLINA,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Anderson. Henry F. Floyd, District Judge.  
(8:05-cv-03034)

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Submitted: February 15, 2007

Decided: February 22, 2007

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Before NIEMEYER, KING, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Charles Lomax, Appellant Pro Se. Donald John Zelenka, Derrick K.  
McFarland, OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA,  
Columbia, South Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles Lomax seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2254 (2000) petition as untimely and without merit. 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 Lomax has not made the requisite showing. 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