

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7665

DOUGLAS SCOTT AREY,

Petitioner - Appellant,

versus

THE STATE OF MARYLAND,

Respondent - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Alexander Williams, Jr., District Judge. (8:05-cv-00637-AW)

Submitted: February 7, 2007

Decided: February 16, 2007

Before WILKINSON and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Douglas Scott Arey, Appellant Pro Se. Ann Norman Bosse, Edward John Kelley, OFFICE OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Douglas Scott Arey seeks to appeal the district court's order and judgment denying his 28 U.S.C. § 2254 (2000) petition as untimely and the district court's order denying Arey's motion for reconsideration. Arey also requests that his case be remanded to the district court for consideration of evidence he received from the state during the pendency of this appeal. The order of the district court 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 Arey has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. Furthermore, we deny the motion to remand. Finally, 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