

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS**

**FOR THE FOURTH CIRCUIT**

WAYNE EUGENE ALEXANDER,

Petitioner-Appellant.

v.

STATE OF SOUTH CAROLINA JUSTICE

No. 97-7407

COMMITTEE; ATTORNEY

GENERAL OF THE STATE OF SOUTH

CAROLINA,

Respondents-Appellees.

Appeal from the United States District Court  
for the District of South Carolina, at Columbia.

Cameron McGowan Currie, District Judge.

(CA-96-3378-3-22-BC)

Submitted: May 19, 1998

Decided: February 18, 1999

Before WIDENER, WILKINS, and NIEMEYER, Circuit Judges.

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Affirmed in part and dismissed in part by unpublished per curiam  
opinion.

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**COUNSEL**

Wayne Eugene Alexander, Appellant Pro Se. Donald John Zelenka,  
Chief Deputy Attorney General, Columbia, South Carolina, for  
Appellees.

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Unpublished opinions are not binding precedent in this circuit.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

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## OPINION

### PER CURIAM:

Wayne Eugene Alexander appeals the district court's order adopting the report and recommendation of a magistrate judge and denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1998). In a separate order, the court also granted a certificate of probable cause to appeal as to one issue--claim (2) below--and denied it as to all other issues. We construe this order as a grant of a certificate of appealability and affirm as to the certified issue. As to the remaining issues, we deny a certificate of appealability and dismiss.

Alexander's petition alleges that his attorney was constitutionally deficient in three respects: (1) he failed to object to the trial court's instruction on malice; (2) he failed to object to the trial court's Allen\* charge; and (3) he failed to object to errors committed by the trial judge, thereby waiving appellate review. We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error.

We therefore affirm the court's order denying § 2254 relief on claim (2), and deny a certificate of appealability and dismiss as to claims (1) and (3) on the reasoning of the district court. Alexander v. South Carolina Justice Committee, No. CA-96-3378-3-22-BC (D.S.C. Aug. 29, 1997). 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.

### AFFIRMED IN PART AND DISMISSED IN PART

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\*Allen v. United States, 164 U.S. 492 (1896).