

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6314

EMMETT RAY NALL,

Petitioner - Appellant,

v.

WARDEN BAZZLE, Perry Correctional Institution,

Respondent - Appellee,

and

HENRY D. MCMASTER, Attorney General of the State of South
Carolina,

Respondent.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. Joseph F. Anderson, Jr., Chief
District Judge. (6:07-cv-01483-JFA)

Submitted: August 20, 2009

Decided: August 26, 2009

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

Dismissed by unpublished per curiam opinion.

Emmett Ray Nall, Appellant Pro Se. Melody Jane Brown, Assistant
Attorney General, Donald John Zelenka, Deputy Assistant Attorney
General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Emmett Ray Nall seeks to appeal the district court's order accepting the report and recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2254 (2006) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. See 28 U.S.C. § 2253(c)(1) (2006). 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) (2006). 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. 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 Nall 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