

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6964

ANDREW T. SWINTON,

Petitioner - Appellant,

versus

JON OZMINT, Director of SC Department of
Corrections; HENRY MCMASTER, Attorney General
for South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Florence. G. Ross Anderson, Jr., District
Judge. (4:05-cv-2826-GRA)

Submitted: June 8, 2007

Decided: July 3, 2007

Before WILLIAMS, Chief Judge, and NIEMEYER and GREGORY, Circuit
Judges.

Dismissed by unpublished per curiam opinion.

Andrew T. Swinton, Appellant Pro Se. Donald John Zelenka, OFFICE
OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South
Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Andrew T. Swinton seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing as untimely his 28 U.S.C. § 2254 (2000) petition. 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 Swinton 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