

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6982

KENNETH E. ROBINSON,

Petitioner - Appellant,

versus

LAWRENCE M. SOLOMON,

Respondent - Appellee.

No. 06-7081

In Re: KENNETH E. ROBINSON,

Petitioner.

Appeals from the United States District Court for the Eastern District of North Carolina, at Raleigh. Malcolm J. Howard, Senior District Judge. (5:05-hc-00116-H)

Submitted: October 31, 2006

Decided: November 6, 2006

Before WILLIAMS, MICHAEL, and GREGORY, Circuit Judges.

No. 06-6982 dismissed; No. 06-7081 petition denied by unpublished per curiam opinion.

Kenneth E. Robinson, Appellant Pro Se. Alvin William Keller, Jr.,
NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

In No. 06-6982, Kenneth E. Robinson seeks to appeal the district court's orders granting summary judgment to Respondent and dismissing as untimely his petition filed under 28 U.S.C. § 2254 (2000), and denying his motion for reconsideration. The orders are 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 his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. 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 (4th Cir. 2001). We have independently reviewed the record and conclude that Robinson has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal in No. 06-6982.*

Robinson petitions for a writ of mandamus in No. 06-7081, alleging the district court has unduly delayed acting on his § 2254

*We also note that Robinson's § 2254 petition is a successive petition. Robinson filed a prior § 2254 petition in the District Court for the Eastern District of North Carolina.

petition. He seeks an order from this court directing the district court to act. Because the district court rendered a final order in the case, we find there has been no undue delay in the district court. Accordingly, although we grant leave to proceed in forma pauperis, we deny the mandamus petition in No. 06-7081. We also deny Robinson's motion for appointment of counsel. 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.

No. 06-6982, DISMISSED;
No. 06-7081, PETITION DENIED