

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-7710**

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GARY LEROY HAYES,

Petitioner - Appellant,

v.

STAN BURTT, Warden; HENRY MCMASTER, Attorney General for South  
Carolina,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Florence. Terry L. Wooten, District Judge.  
(4:06-cv-01951)

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Submitted: June 25, 2008

Decided: August 28, 2008

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Before NIEMEYER and TRAXLER, Circuit Judges, and WILKINS, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Gary Leroy Hayes, Appellant Pro Se. Donald John Zelenka, Deputy  
Assistant Attorney General, Samuel Creighton Waters, Assistant  
Attorney General, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gary Leroy Hayes seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on 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 Hayes 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