

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6472

HAYWARD LEON ROGERS,

Petitioner - Appellant,

v.

COLIE RUSHTON,

Respondent - Appellee.

Appeal from the United States District for the District of South
Carolina, at Anderson. Margaret B. Seymour, District Judge.
(8:07-cv-00947-MBS)

Submitted: June 19, 2008

Decided: June 25, 2008

Before WILKINSON, NIEMEYER, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Hayward Leon Rogers, Appellant Pro Se. Donald John Zelenka, Deputy
Assistant Attorney General, William Edgar Salter, III, Assistant
Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Hayward Leon Rogers seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing without prejudice 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 Rogers 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