

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7001

STANLEY WILLIAMS,

Petitioner - Appellant,

v.

PERRY CORRECTIONAL INSTITUTION,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Henry F. Floyd, District Judge. (3:08-cv-00798-HFF-JRM)

Submitted: August 20, 2008

Decided: August 29, 2008

Before MOTZ, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Stanley Williams, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Stanley Williams seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2254 (2000) petition for failure to prosecute and has filed an application for an original writ of habeas corpus with this court under 28 U.S.C. § 2241 (2000).

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 Williams has not made the requisite showing.

Although we are authorized under 28 U.S.C. § 2241 (2000) to exercise jurisdiction over original petitions for habeas corpus relief, we are not required to do so and we typically decline to exercise such jurisdiction and instead transfer the matter to the appropriate district court. See Fed. R. App. P. 22(a). We will

not transfer a habeas corpus petition unless the transfer would serve the interests of justice. See 28 U.S.C. § 1631 (2000). We conclude that a transfer of this matter would not be in the interests of justice.

Accordingly, we deny a certificate of appealability, deny the motion for an original writ of habeas corpus, 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