UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7128

WAYNE ELLIOTT WILKERSON,

              Petitioner - Appellant,

        v.

THEODIS BECK, Secretary, North Carolina Department of
Correction,

              Respondent - Appellee.

Appeal from the United States District Court for the Middle
District of North Carolina, at Durham. William L. Osteen, Jr.,
District Judge. (1:07-cv-00802-WO-PTS)

Submitted: September 11, 2008   Decided: September 17, 2008

Before WILKINSON and NIEMEYER, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Wayne Elliott Wilkerson, Appellant Pro Se. Clarence Joe DelForge,
III, Assistant Attorney General, Raleigh, North Carolina, for
Appellee.

PER CURIAM:

Wayne Elliott Wilkerson 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 Wilkerson has not made the requisite showing. Accordingly, we deny Wilkerson's motion for 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

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