UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7189

GARY F. MATHERS,

Petitioner - Appellant,

v.

EVELYN SEIFERT, Administrator, Northern Correctional Center,

Respondent - Appellee.

Appeal from the United States District Court for the Southern District of West Virginia, at Parkersburg. Joseph R. Goodwin, Chief District Judge. (6:07-cv-00734)

Submitted: October 14, 2008 Decided: October 20, 2008

Before KING, GREGORY, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Gary F. Mathers, Appellant Pro Se. Robert David Goldberg, Assistant Attorney General, Dawn Ellen Warfield, Deputy Attorney General, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gary F. Mathers seeks to appeal the district court's order adopting in part and denying in part the recommendation of the magistrate judge and denying 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. See 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. 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, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Mathers has not made the requisite showing. Accordingly, we deny Mathers' 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