

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7928

CHRISTOPHER SPENCER, a/k/a Christopher L. Spencer,

Petitioner - Appellant,

v.

MCKITHER BODISON, Warden of Lieber Correctional Institution,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Florence. Patrick Michael Duffy, District Judge. (4:08-cv-02035-PMD)

Submitted: July 7, 2010

Decided: July 14, 2010

Before NIEMEYER, DUNCAN, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Christopher Spencer, Appellant Pro Se. Melody Jane Brown, Assistant Attorney General, Donald John Zelenka, Deputy Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Christopher Spencer seeks to appeal the district court's order denying his motion for enlargement of time to file objections to the report and recommendation of the magistrate judge following the district court's order accepting the recommendation and denying relief on his 28 U.S.C. § 2254 (2006) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006); Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004). 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) (2006). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000); see Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable claim of the denial of a constitutional right. Slack, 529 U.S. at 484-85. We have independently reviewed the record and conclude that Spencer 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