

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Dale Epps, #227893, a/k/a Dale S. Epps,
Petitioner,
vs.
Michael McCall,
Respondent.

No. 1:13-cv-873-RMG

ORDER

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Petitioner Dale Epps, a prisoner at Lee Correctional Institution in Bishopville, South Carolina, brought this matter pro se pursuant to 28 U.S.C. § 2254, challenging his conviction and sentence. (Dkt. No. 1). This Court dismissed this petition on June 13, 2013. (Dkt. No. 15). Petitioner sought to appeal that dismissal. (Dkt. Nos. 18, 19). Such an appeal requires issuance of a certificate of appealability. See 28 U.S.C. § 2253(c)(1).

In addressing Petitioner’s appeal, the Fourth Circuit observed that this Court’s “order denying relief in this case neither grants nor denies a certificate of appealability,” and therefore remanded this case “for the limited purpose of permitting [this Court] to supplement the record with an order granting or denying a certificate of appealability.” (Dkt. No. 26). By this order, this Court remedies the deficiency in its June 13, 2013, order.

The law governing issuance of a Certificate of Appealability provides that:

(c)(2) A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right.

(c)(3) The certificate of appealability . . . shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

28 U.S.C. § 2253(c). A prisoner satisfies the standard by demonstrating that reasonable jurists would find this Court's assessment of his constitutional claims 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 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this case, the legal standard for the issuance of a certificate of appealability has not been met. Therefore, a certificate of appealability is **DENIED**.

AND IT IS SO ORDERED.

s/ Richard M. Gergel
Richard Mark Gergel
United States District Judge

Charleston, South Carolina
July 10, 2013