

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

David Hightower, #256047,	)	C/A NO. 2:07-63-CMC-RSC
	)	
Petitioner,	)	
	)	<b>ORDER</b>
v.	)	
	)	
Warden, McCormick Correctional	)	
Institution,	)	
	)	
Respondent.	)	
_____	)	

This matter is before the court on motions filed by Petitioner with this court on August 14, 2008.

Petitioner’s motion to set aside the judgment, Dkt. # 18, is the same as a previously-denied motion. *See* Dkt. # 16. It is, therefore, **denied**.

Petitioner has also filed a motion for certificate of appealability. Dkt. # 19. The governing law 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 this standard by demonstrating that reasonable jurists would find this court’s assessment of his constitutional claims 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 (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. Petitioner's motion, therefore, is **denied**.

Petitioner has also submitted objections to the Report and Recommendation of the Magistrate Judge and a motion for appointment of counsel. Dkts. # 20, 21. These objections are untimely and the court **denies** Petitioner's motion for appointment of counsel.

Petitioner's last "motion" appears to be an effort to amend his petition for writ of habeas corpus. To the extent Petitioner seeks to amend his previously-filed petition, this matter is closed and therefore Petitioner's "motion" is **denied**.

**IT IS SO ORDERED.**

s/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
September 29, 2008

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