

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7672

BOBBY LEE MCLEAN,

Petitioner - Appellant,

v.

THEODIS BECK,

Respondent - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Russell A. Eliason, Magistrate Judge. (1:08-cv-00087-RAE)

Submitted: January 28, 2009

Decided: February 12, 2009

Before GREGORY, DUNCAN, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Bobby Lee McLean, Appellant Pro Se. Clarence Joe DelForge, III, Mary Carla Hollis, Assistant Attorneys General, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bobby Lee McLean seeks to appeal the magistrate judge's order 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). 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). 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 McLean has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny leave to proceed in forma pauperis, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately

* This case was decided by the magistrate judge upon consent of the parties under 28 U.S.C. § 636(c) (2006) and Fed. R. Civ. P. 73.

presented in the materials before the court and argument would not aid the decisional process.

DISMISSED