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FILED: November 22, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-6810
(1:24-cv-00413-WO-JLW)

SIMARON D. HILL

Petitioner - Appellant

v.

TODD ISHEE

Respondent - Appellee

J U D G M E N T

In accordance with the decision of this court, a certificate of appealability is denied and the appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SIMARON D. HILL,

Petitioner,

v.

TODD ISHEE,

Respondent.

1:24-cv-413

ORDER

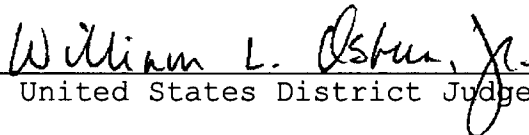
This matter is before the court for review of the Recommendation and Order ("Recommendation") filed on May 28, 2024, by the United States Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 2.) The Recommendation was served on Petitioner in this action on May 28, 2024. (Doc. 3.) The record reflects that no objections were filed within the time limits prescribed by Section 636. However, Petitioner filed a motion under 28 U.S.C. § 2244 with the United States Court of Appeals for the Fourth Circuit for an order authorizing the district court to consider a second or successive application for relief under 28 U.S.C. § 2254, that motion was denied. (See Doc. 4.)

This court has appropriately reviewed the record and has made a de novo determination, which is in accord with the Magistrate Judge's Recommendation, and therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 2), is **ADOPTED. IT IS FURTHER ORDERED** that the Petition, (Doc. 1), is hereby **DISMISSED** for failure to apply to the United States Court of Appeals for the Fourth Circuit for an order authorizing this district court to consider the current Petition as is required by 28 U.S.C. § 2244. The court further finds there is no substantial showing of the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, therefore a certificate of appealability is not issued.

A Judgment dismissing this action will be filed contemporaneously with this Order.

This the 5th day of August, 2024.


United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

SIMARON D. HILL,

Petitioner,

v.

TODD ISHEE,

Respondent.

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1:24-cv-413

JUDGMENT

For the reasons set forth in the Order filed
contemporaneously with this Judgment,

IT IS ORDERED AND ADJUDGED that the Petition, (Doc. 1), is
hereby **DISMISSED** for failure to apply to the United States Court
of Appeals for the Fourth Circuit for an order authorizing this
district court to consider the current Petition as is required
by 28 U.S.C. § 2244.

The court further finds there is no substantial showing of
the denial of a constitutional right affecting the conviction
nor a debatable procedural ruling, therefore a certificate of
appealability is not issued.

This the 5th day of August, 2024.


United States District Judge

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 24-6810

SIMARON D. HILL,

Petitioner - Appellant,

v.

TODD ISHEE,

Respondent - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., District Judge. (1:24-cv-00413-WO-JLW)

Submitted: November 4, 2024

Decided: November 22, 2024

Before WILKINSON and GREGORY, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Simaron D. Hill, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Simaron D. Hill seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing Hill's 28 U.S.C. § 2254 petition as an unauthorized, successive § 2254 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)(A); *Jones v. Braxton*, 392 F.3d 683, 688 (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). When, as here, 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. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Hill has not made the requisite showing. Accordingly, we deny a certificate of appealability, deny Hill's motion to expedite as moot, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

FILED: December 20, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-6810
(1:24-cv-00413-WO-JLW)

SIMARON D. HILL

Petitioner - Appellant

v.

TODD ISHEE

Respondent - Appellee

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wilkinson, Judge Gregory, and Senior Judge Traxler.

For the Court

/s/ Nwamaka Anowi, Clerk

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-6810
(1:24-cv-00413-WO-JLW)

SIMARON D. HILL

Petitioner - Appellant

v.

TODD ISHEE

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TEMPORARY STAY OF MANDATE

Under Fed. R. App. P. 41(b), the filing of a timely petition for rehearing or rehearing en banc stays the mandate until the court has ruled on the petition. In accordance with Rule 41(b), the mandate is stayed pending further order of this court.

/s/Nwamaka Anowi, Clerk