

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-7030

BRETT C. KIMBERLIN,

Petitioner - Appellant,

versus

STEPHEN DEWALT, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca B. Smith, District Judge. (CA-99-1547-2)

Submitted: January 5, 2001

Decided: January 17, 2001

Before WILLIAMS and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Brett C. Kimberlin, Appellant Pro Se. George Maralan Kelley, III, Gregory David Stefan, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Brett C. Kimberlin appeals the district court's order denying relief on his 28 U.S.C. § 2241 (1994) petition. We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we affirm on the reasoning of the district court. Kimberlin v. Dewalt, No. CA-99-1547-2 (E.D. Va. July 12, 2000).* In addition, we decline to consider the claims Kimberlin raises for the first time on appeal. See Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993) (holding that issues raised for first time on appeal generally will not be considered absent exceptional circumstances of plain error or fundamental miscarriage of justice). 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.

AFFIRMED

* Although the district court's order is marked as "filed" on July 11, 2000, the district court's record shows that it was entered on the docket sheet on July 12, 2000. Pursuant to Rules 58 and 79(a) of the Federal Rules of Civil Procedure, it is the date that the judgment or order was entered on the docket sheet that we take as the effective date of the district court's decision. Wilson v. Murray, 806 F.2d 1232, 1234-35 (4th Cir. 1986).