

OPINION ON REHEARING
UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

JEFFREY DWAYNE ROGERS,
Petitioner-Appellant,

v.

MARTIN MCDADE, Superintendent;
NORTH CAROLINA DEPARTMENT OF
CORRECTION,
Respondents-Appellees.

No. 00-7823

Appeal from the United States District Court
for the Western District of North Carolina, at Statesville.
Graham C. Mullen, Chief District Judge.
(CA-96-15-4-MU)

Submitted: September 28, 2001

Decided: April 3, 2002

Before WIDENER, NIEMEYER, and LUTTIG, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Jeffrey Dwayne Rogers, Appellant Pro Se. Clarence Joe DelForge,
III, OFFICE OF THE ATTORNEY GENERAL OF NORTH CARO-
LINA, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Jeffrey Dwayne Rogers seeks to appeal the district court's order granting summary judgment to Respondents and denying his petition under 28 U.S.C. § 2254 (West 1994) (current version at 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001)). We grant Respondents' petition for rehearing but deny rehearing en banc. Upon our review, we find insufficient evidence that the State's factfinding was deficient in some significant respect. *See Fitzgerald v. Greene*, 150 F.3d 357, 369 (4th Cir. 1998). Accordingly, we affirm based on the reasoning of the district court. *Rogers v. McDade*, No. CA-96-15-4-MU (W.D.N.C. filed Nov. 27, 2000; entered Nov. 30, 2000); *see North Carolina v. Rogers*, File No. 93 CRS 7128, 7129 (Sup. Ct. Wilkes County June 12, 1995).

We note that the district court granted Rogers' request for a certificate of appealability. However, such a certificate is not necessary because this § 2254 petition was filed prior to the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. *See Lindh v. Murphy*, 521 U.S. 320, 336 (1997); *Mueller v. Angelone*, 181 F.3d 557, 565-66, (4th Cir.), *cert. denied*, 527 U.S. 1065 (1999). To the extent it is necessary, we grant a certificate of probable cause. *See* 28 U.S.C. § 2253 (1994). 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