

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-6733**

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JOHN L. SHERER,

Petitioner - Appellant,

versus

COMMONWEALTH OF VIRGINIA,

Respondent - Appellee.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, District Judge. (CA-00-664-7)

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Submitted: August 23, 2001

Decided: August 30, 2001

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Before WILKINS and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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John L. Sherer, Appellant Pro Se. Robert H. Anderson, III, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

John L. Sherer appeals the district court's order denying relief without prejudice on his 28 U.S.C. § 2241 (1994) petition claiming that he has been denied the right to a speedy trial. Even if the district court had jurisdiction over Sherer's pretrial habeas corpus petition, Braden v. 30th Judicial Circuit Court, 410 U.S. 484, 489 (1973), Sherer has been declared incompetent so it would not be possible to move forward with the trial. Accordingly, we deny a certificate of appealability and dismiss the appeal. 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.

DISMISSED