

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-7099**

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DENNIS LEE PERRY,

Petitioner - Appellant,

versus

WILLIAM D. CATOE; STATE OF SOUTH CAROLINA;  
CHARLES M. CONDON, South Carolina Attorney  
General,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Spartanburg. G. Ross Anderson, Jr., District  
Judge. (CA-01-313-7-13BG)

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Submitted: September 6, 2001

Decided: September 18, 2001

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Before WIDENER, WILLIAMS, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Dennis Lee Perry, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Dennis Lee Perry seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2000). Although Perry's § 2254 petition was untimely, the district court denied relief for failure to exhaust state remedies. Because Perry's § 2254 was filed outside the applicable one-year limitations period, we deny a certificate of appealability and dismiss the appeal for that reason. See Hernandez v. Caldwell, 225 F.3d 435, 439 (4th Cir. 2000). Under Hernandez, Perry had until April 24, 1997 to file his § 2254 petition, and he did not file until January 21, 2001.\* 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

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\* We have accorded Perry the benefit of Houston v. Lack, 487 U.S. 266 (1988).