

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7699

JOSHUA CARTER,

Petitioner - Appellant,

versus

ALFRED M. TRIPP, Lawyer, Court Appointee;
CHARLES D. GRIFFITH, JR., Judge,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T. S. Ellis, III, District Judge. (CA-01-1387-AM)

Submitted: January 17, 2002

Decided: January 29, 2002

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

Dismissed by unpublished per curiam opinion.

Joshua Carter, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Joshua Carter appeals from the district's court order dismissing his 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001) complaint without prejudice because he failed to exhaust available state court remedies. Because Carter may refile this action after exhausting state remedies, his appeal is interlocutory and not subject to appellate review under Domino Sugar Corp. v. Sugar Workers Local 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). Accordingly, we deny leave to proceed in forma pauperis, 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