

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

WILLIAM T. ROBINSON,
Petitioner-Appellant,
v.
COMMONWEALTH OF VIRGINIA,
Respondent-Appellee.

No. 01-7724

Appeal from the United States District Court
for the Eastern District of Virginia, at Alexandria.
James C. Cacheris, Senior District Judge.
(CA-01-1273-AM)

Submitted: April 30, 2002

Decided: May 23, 2002

Before NIEMEYER, TRAXLER, and KING, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

COUNSEL

William T. Robinson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

William Robinson seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001). For the reasons set forth below, we vacate the district court's order and remand for further proceedings.

The district court, acting sua sponte, determined from the face of Robinson's petition that his action was barred by the one-year limitations period set forth in 28 U.S.C.A. § 2244(d) (West Supp. 2001), and dismissed the action without giving Robinson notice or an opportunity to respond. Our recent decision in *Hill v. Braxton*, 277 F.3d 701 (4th Cir. 2002), issued after the district court's opinion, now requires the district court to provide such a warning "unless it is indisputably clear from the materials presented to the district court that the petition is untimely and cannot be salvaged by equitable tolling principles or any of the circumstances enumerated in § 2244(d)(1)." *Id.* at 707.

Because it is not "indisputably clear" on the present record that Robinson cannot salvage his petition, we grant Robinson's motions for a certificate of appealability, vacate the district court's order, and remand to the district court to provide Robinson with the notice and opportunity to respond to which he is now entitled pursuant to *Hill*. 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.

VACATED AND REMANDED