

UNPUBLISHED

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

JOE LEWIS BROWN,  
*Petitioner-Appellant,*

v.

RONALD J. ANGELONE,  
*Respondent-Appellee.*

No. 01-7951

Appeal from the United States District Court  
for the Western District of Virginia, at Roanoke.  
Jackson L. Kiser, Senior District Judge.  
(CA-01-778)

Submitted: March 13, 2002

Decided: February 10, 2003

Before WIDENER, MOTZ, and KING, Circuit Judges.

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Vacated and remanded by unpublished per curiam opinion.

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**COUNSEL**

Joe Lewis Brown, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

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**OPINION**

## PER CURIAM:

Joe Lewis Brown appeals the district court's order sua sponte dismissing his 28 U.S.C. § 2254 (2000) petition as untimely because it was filed beyond the one-year limitation period of 28 U.S.C. § 2244(d) (2000). Because the district court sua sponte dismissed Brown's § 2254 petition as untimely without affording him notice or an opportunity to be heard and because it is not indisputably clear from the district court record that the petition is untimely and cannot be salvaged by equitable tolling principles or any of the circumstances enumerated in § 2244(d)(1), we grant a certificate of appealability, vacate the district court's order, and remand to the district court for additional proceedings consistent with *Hill v. Braxton*, 277 F.3d 701 (4th Cir. 2002). 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*