

UNPUBLISHED

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

WILLIAM R. TAYLOR,
Petitioner-Appellant,
v.
RON ANGELONE,
Respondent-Appellee.

No. 02-6262

Appeal from the United States District Court
for the Eastern District of Virginia, at Alexandria.
James C. Cacheris, Senior District Judge.
(CA-02-48-1-AM)

Submitted: May 16, 2002

Decided: May 31, 2002

Before NIEMEYER, MICHAEL, and MOTZ, Circuit Judges.

Remanded by unpublished per curiam opinion.

COUNSEL

William R. Taylor, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

William R. Taylor appeals the district court's order denying relief on his 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001), petition. We hereby grant a certificate of appealability and remand for consideration of Taylor's post-judgment motion on the merits. After the district court dismissed Taylor's petition for failure to exhaust his underlying claim in state court, Taylor timely noted an appeal and filed documents in the district court tending to show that he had actually sought review of his claim in the Virginia Supreme Court. The district court considered Taylor's filings a motion pursuant to Fed. R. Civ. P. 60(b) and has issued a short memorandum indicating its inclination to grant Taylor's post-judgment motion. *Fobian v. Storage Tech. Corp.*, 164 F.3d 887, 891 (4th Cir. 1999). Accordingly, we remand this cause for consideration of the motion on the merits. *See id.* at 892. In so doing, we express no opinion on the merits of the motion. *See id.* 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.

REMANDED

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