

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6235

ERIC ALLEN VICKERS,

Petitioner - Appellant,

versus

GENE M. JOHNSON, Director of Virginia
Department of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Jerome B. Friedman, District
Judge. (2:05-cv-00147-JBF)

Submitted: October 17, 2006

Decided: October 19, 2006

Before NIEMEYER, KING, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Eric Allen Vickers, Appellant Pro Se. Donald Eldridge Jeffrey,
III, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond,
Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Eric Allen Vickers seeks to appeal the report and recommendation entered by a magistrate judge that recommended denying relief on his 28 U.S.C. § 2254 (2000) petition. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 546 (1949). Pursuant to 28 U.S.C. § 636(c) (2000), a magistrate judge may enter a final order directly appealable to the court of appeals upon consent of all parties. Otherwise, under § 636(b), an appeal of an order entered by a magistrate judge lies with the district court. Absent an express adoption, modification, or rejection of the magistrate judge's ruling by the district court, the ruling is generally not reviewable by the court of appeals. See Reynaga v. Cammisa, 971 F.2d 414, 416-18 (9th Cir. 1992). In this case, we find nothing in the record showing that the parties agreed to have Vickers' petition decided by the magistrate judge, and the magistrate judge's report and recommendation does not purport to be a final, appealable order. Accordingly, we dismiss the appeal for lack of jurisdiction. 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