UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6753

ANTHONY LAMBERT, SR.,

Petitioner - Appellant,

versus

STATE OF NORTH CAROLINA, Albermarle Child Support Enforcement Agency,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (CA-96-833-5-BO)

Submitted: November 20, 1997 Decided: December 9, 1997

Before MURNAGHAN, MICHAEL, and MOTZ, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

Anthony Lambert, Sr., Appellant Pro Se. Clarence Joe DelForge, III, OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1997). The district court rejected the magistrate judge's analysis and found the case to be moot. We find that the case is not moot, see Leonard v. Hammond, 804 F.2d 838, 842-43 (4th Cir. 1986) (holding that habeas corpus challenges to civil contempt orders for failure to pay child support are "capable of repetition yet evading review"), but that, as the magistrate judge found, Appellant's claims are meritless. We therefore grant a certificate of appealability and affirm as modified for the reasons stated by the magistrate judge. Lambert v. North Carolina, No. CA-96-833-5-BO (E.D.N.C. Feb. 11, 1997). 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.

AFFIRMED AS MODIFIED