

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-7525

JAMES D. SUTTON, JR.,

Petitioner - Appellant,

versus

COLIE L. RUSHTON, Warden; CHARLES CONDON, At-
torney General of the State of South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Orangeburg. Charles E. Simons, Jr., Senior
District Judge. (CA-96-3236-5-6JI)

Submitted: January 22, 1998

Decided: February 4, 1998

Before WIDENER, MICHAEL, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James D. Sutton, Jr., Appellant Pro Se. Lauri J. Soles, OFFICE OF
THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South Carolina,
for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

James Sutton appeals the district court's order denying relief on his petition filed under 28 U.S.C. § 2254 (1994), amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. We find that the district court properly exercised its discretion when denying Sutton's motion to amend his original § 2254 petition. We further find that Sutton suffered no prejudicial error stemming from the district court's failure to appoint counsel. Accordingly, we deny a certificate of appealability and dismiss on the reasoning of the district court.* Sutton v. Rushton, No. CA-96-3236-5-6JI (D.S.C. Sept. 29, 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.

DISMISSED

* We find no error in the district court's practice of reviewing de novo the magistrate judge's report and recommendation and adopting the report into its own order. See 28 U.S.C. § 636(b)(1)(C) (1994).