

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-7389

MICHAEL RICHARD D'ALESSANDRO,

Petitioner - Appellant,

versus

WILLIS E. MORTON; ATTORNEY GENERAL OF THE
STATE OF NEW JERSEY; ATTORNEY GENERAL OF THE
STATE OF MARYLAND,

Respondents - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. Frederic N. Smalkin, District Judge. (CA-
97-2316-S)

Submitted: December 15, 1998

Decided: January 13, 1999

Before WIDENER, MURNAGHAN, and NIEMEYER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael Richard D'Alessandro, Appellant Pro Se. John Joseph Curran,
Jr., Attorney General, Ann Norman Bosse, OFFICE OF THE ATTORNEY
GENERAL OF MARYLAND, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Michael D'Alessandro seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1998). We have reviewed the record and the district court's opinion and find no reversible error. The district court fully complied with this court's mandate in D'Alessandro v. Morton, No. 97-7850 (4th Cir. June 30, 1998) (unpublished). D'Alessandro failed to waive his right to be present at state post conviction proceedings or to indicate alternative acceptable procedures and thus has failed to exhaust his state remedies. See Farmer v. Circuit Court, 31 F.3d 219, 224 (4th Cir. 1994). Accordingly, although we grant D'Alessandro leave to proceed in forma pauperis, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. D'Alessandro v. Morton, No. CA-97-2316-S (D. Md. Aug. 27, 1998). We deny D'Alessandro's motion to appoint counsel. 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