

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 99-6872**

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JAMES BILLY HENRY,

Petitioner - Appellant,

versus

DAN MAHN,

Respondent - Appellee.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, District Judge. (CA-99-175-7)

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Submitted: April 27, 2000

Decided: May 3, 2000

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Before NIEMEYER and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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James Billy Henry, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

James Billy Henry seeks to appeal the district court's order dismissing without prejudice his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1999), for failure to exhaust state court remedies. Because Henry failed to challenge the basis for the district court's ruling in his informal brief, he has not preserved the issue for our review. See 4th Cir. R. 34(b). Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. See Henry v. Mahn, No. CA-99-175-7 (W.D. Va. June 11, 1999). 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