

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 00-7774**

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CEDRIC DION FUNDERBURK,

Petitioner - Appellant,

versus

RICK JACKSON, Superintendent,

Respondent - Appellee.

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Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., Chief District Judge. (CA-00-263-1)

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Submitted: April 12, 2001

Decided: April 17, 2001

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Before NIEMEYER, WILLIAMS, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Cedric Dion Funderburk, Appellant Pro Se. Clarence Joe DelForge, III, OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Cedric Funderburk appeals the district court's order dismissing as untimely his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2000). We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. See Funderburk v. Jackson, No. CA-00-263-1 (M.D.N.C. Nov. 6, 2000). 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