

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-7026**

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KENT N. SIMMONS,

Petitioner - Appellant,

versus

RON ANGELONE, Director, Department of  
Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Alexandria. Gerald Bruce Lee, District  
Judge. (CA-00-2066)

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Submitted: August 10, 2001

Decided: September 5, 2001

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Before WILKINS, WILLIAMS, and MOTZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Kent N. Simmons, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Kent N. Simmons appeals from the district court's order denying his motion for reconsideration. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss substantially on the reasoning of the district court. Simmons v. Angelone, No. CA-00-2066 (E.D. Va. June 5, 2001).<sup>\*</sup> 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

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\* The district court analyzed Simmons' motion for reconsideration under Fed. R. Civ. P. Rule 60(b). Because the motion was filed within ten days of the entry of judgment, it should have been construed as a Rule 59(e) motion. Dove v. TEDESCO, 569 F.2d 807, 809 (4th Cir. 1978). Any error in the construction of Simmons' motion was harmless, however; the district court's thorough analysis makes it evident that relief would have been unavailing even had the motion been treated as arising under Rule 59(e).