

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7720

STEVEN RAY LEVISTER,

Petitioner - Appellant,

versus

HOWARD PAINTER, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. David A. Faber, District Judge. (CA-01-711-1)

Submitted: January 31, 2002

Decided: February 8, 2002

Before NIEMEYER, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Steven Ray Levister, Appellant Pro Se. Darrell V. McGraw, Jr., Dawn Ellen Warfield, OFFICE OF THE ATTORNEY GENERAL OF WEST VIRGINIA, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Steven Ray Levister appeals the district court's order accepting the magistrate judge's recommendation and dismissing his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001) as time-barred under the Antiterrorism and Effective Death Penalty Act (AEDPA). On appeal, Levister contends he filed his petition within one year of the date on which the factual predicate of his claim was discovered and that his petition is thus timely under 28 U.S.C.A. § 2244(d)(1)(D) (West Supp. 2001). We find this claim to be without merit. Accordingly, we deny a certificate of appealability and dismiss the appeal. 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