

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7265

MAX ARBAUGH,

Petitioner - Appellant,

versus

THOMAS MCBRIDE,

Respondent - Appellee.

Appeal from the United States District Court for the Northern District of West Virginia, at Elkins. Robert Earl Maxwell, Senior District Judge. (CA-02-14-2)

Submitted: October 15, 2002

Decided: October 22, 2002

Before WILLIAMS, MOTZ, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Max Arbaugh, Appellant Pro Se. 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Unpublished opinions are not binding precedent in this circuit.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:

Max Arbaugh seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his petition filed under 28 U.S.C. § 2254 (2000). We have reviewed the record and conclude for the reasons stated by the district court that Arbaugh has not made a substantial showing of the denial of a constitutional right. See Arbaugh v. McBride, No. CA-02-14-2 (N.D.W. Va. Aug. 8, 2002). Accordingly, we deny a certificate of appealability and dismiss the appeal. See 28 U.S.C. § 2253(c) (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