

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7352

KENNETH MICHAEL PLYMALE,

Petitioner - Appellant,

versus

SHANNON MARKLE, Warden, Central Regional Jail,

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-02-2-CVB)

Submitted: November 7, 2002

Decided: November 15, 2002

Before WILKINS and LUTTIG, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Kenneth Michael Plymale, Appellant Pro Se. Heather Dawn Foster, Assistant Attorney General, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Kenneth Michael Plymale 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 based on the reasons stated by the district court and the magistrate judge that Plymale has not made a substantial showing of the denial of a constitutional right. See Plymale v. Markle, No. CA-02-2-CVB (N.D.W. Va. Aug. 20, 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