

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-6082

LEONARD RICKY KELLY,

Petitioner - Appellant,

versus

TOM MARTIN, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Malcolm J. Howard, District Judge. (CA-95-103-5-HC-H)

Submitted: January 9, 1997

Decided: January 21, 1997

Before HALL and MICHAEL, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Leonard Ricky Kelly, Appellant Pro Se. Clarence Joe DelForge, III, OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Leonard Ricky Kelly seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C. § 2254 (1994), amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we deny a certificate of probable cause to appeal; to the extent that a certificate of appealability is required, we deny such a certificate. We dismiss the appeal on the reasoning of the district court. Kelly v. Martin, No. CA-95-103-5-HC-H (E.D.N.C. Dec. 12, 1995).^{*} 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

^{*} We also deny as moot Kelly's motion entitled "Mandamus Motion to Compel" which seeks to compel the district court to rule on a Fed. R. Civ. P. 60(b) motion.