

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-6744

RICHARD LEE HAYWOOD,

Petitioner - Appellant,

versus

DONALD GUILLORY, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Chief District Judge. (CA-95-1161)

Submitted: July 23, 1996

Decided: August 6, 1996

Before WIDENER, NIEMEYER, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Richard Lee Haywood, Appellant. Thomas Drummond Bagwell, Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant appeals from the district court's order denying relief on his petition brought under 28 U.S.C. § 2254 (1988), as amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1217. In his petition, Appellant raised the following claims: (1) his attempted murder and malicious wounding convictions violate the Double Jeopardy Clause; (2) his indictments were defective; (3) his arraignment was improperly conducted; and (4) there was insufficient evidence to support his conviction for breaking and entering, first degree murder, and abduction. We have reviewed the record and the district court's opinion and find no reversible error as to the dismissal of claims (1) and (2). Accordingly, we deny a certificate of appealability and dismiss these claims on the reasoning of the district court. Haywood v. Guillory, No. CA-95-1161 (E.D. Va. Apr. 11, 1996).

Upon further review, we find claim (3) and all but the breaking and entering count in claim (4) to be non-exhausted and procedurally defaulted under the rule in Slayton v. Parrigan, 205 S.E.2d 680 (Va. 1974), cert. denied, 419 U.S. 1108 (1975). Turning then to the only remaining claim, we find that, taking the evidence adduced at trial and its logical inferences in the light most favorable to the Government, a reasonable fact-finder could have found Appellant guilty of violating Va. Code Ann. § 18.2-92 (Michie 1995 Supp.) beyond a reasonable doubt. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequate-

ly presented in the materials before the court and argument would not aid the decisional process.

DISMISSED