

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-7176

JESSE DWIGHT MIXION,

Petitioner - Appellant,

versus

ATTORNEY GENERAL OF NORTH CAROLINA; MARTIN
MCDADE, Superintendent,

Respondents - Appellees.

Appeal from the United States District Court for the Middle Dis-
trict of North Carolina, at Winston-Salem. N. Carlton Tilley, Jr.,
District Judge. (CA-96-931-6)

Submitted: January 30, 1998

Decided: February 26, 1998

Before NIEMEYER, LUTTIG, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jesse Dwight Mixion, Appellant Pro Se. Clarence Joe DelForge, III,
OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North
Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1997). We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal substantially on the reasoning of the district court. Mixon v. Attorney Gen. of North Carolina, No. CA-96-931-6 (M.D.N.C. July 18, 1997). We find that the Appellant's Sixth Amendment right to confront witnesses was not violated because the State's proffered evidence was admissible under N.C. Gen. Stat. § 8C-1, Rule 803(3), and Fed. R. Evid. 803(3), a "firmly rooted" exception to the hearsay rule. See White v. Illinois, 502 U.S. 346, 356 (1992); see also State v. Cummings, 389 S.E.2d 66, 74 (N.C. 1990); State v. Faucette, 392 S.E.2d 71, 74-75 (N.C. 1990). 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