UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-7874

WILLIE B. BYRON, JR.,

Petitioner - Appellant,

versus

L. M. SAUNDERS, Warden of Augusta Correctional Center,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, District Judge. (CA-97-334-3)

Submitted: April 16, 1998 Decided: April 30, 1998

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

Dismissed by unpublished per curiam opinion.

Willie B. Byron, Jr., Appellant Pro Se. Linwood Theodore Wells, Jr., 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Unpublished opinions are not binding precedent in this circuit.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 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 and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal substantially on the reasoning of the district court. Byron v. Saunders, No. CA-97-334-3 (E.D. Va. Nov. 25, 1997). We agree with the court's conclusion that Appellant's claims are procedurally barred and that Appellant failed to establish cause and prejudice for his default or that he is actually innocent. We therefore dismiss the appeal on that basis. 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