

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 98-6167**

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FRANKIE DEAN MCFALLS,

Petitioner - Appellant,

versus

MICHAEL F. EASLEY,

Respondent - Appellee.

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Appeal from the United States District Court for the Western District of North Carolina, at Shelby. Graham C. Mullen, District Judge. (CA-97-161-4-MU)

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Submitted: October 20, 1998

Decided: November 10, 1998

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Before NIEMEYER and LUTTIG, Circuit Judges, and BUTZNER, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Frankie Dean McFalls, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Frankie McFalls, a North Carolina prisoner, appeals from a district court order dismissing for failure to state a claim his petition filed under 28 U.S.C. § 2254 (1994) (current version at 28 U.S.C.A. § 2254 (West 1994 & Supp. 1998)). We have reviewed the record and the district court's opinion and find no reversible error. Because the grounds for relief McFalls asserted in his habeas petition would only bear on the length of his sentence, and do not assert that his sentence was influenced by any factor implicating federal rights, his petition fails to state a cognizable claim for habeas relief under § 2254(a). See Makal v. Arizona, 544 F.2d 1030, 1035 (9th Cir. 1976). Accordingly, we deny a certificate of probable cause to appeal, deny leave to proceed in forma pauperis, and dismiss this appeal. 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