

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-6789

JOSEPH FREDERICK MOORE,

Petitioner - Appellant,

versus

H. R. POWELL, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, District Judge. (CA-97-595)

Submitted: October 29, 1999

Decided: December 17, 1999

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

Dismissed by unpublished per curiam opinion.

Joseph Frederick Moore, Appellant Pro Se. Leah Ann Darron, Assistant Attorney General, Richmond, Virginia; Richard Cullen, MCGUIRE, WOODS, BATTLE & BOOTHE, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Joseph Frederick Moore, a Virginia inmate, appeals from the district court's order denying his motion to reopen the proceedings relating to his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1999). The district court dismissed the motion as frivolous. Although Moore styled his motion as one to reopen § 2254 proceedings, there is no provision in the Federal Rules of Civil Procedure or the Rules Governing § 2254 Cases for such a motion. To the extent that the motion to reopen may be construed as one filed under Fed. R. Civ. P. 60(b), we have reviewed the record and have considered Moore's claims on appeal and find no abuse of discretion in the district court's denial of relief. See Heyman v. M.L. Mktg. Co., 116 F.3d 91, 94 (4th Cir. 1997) (stating standard of review for Rule 60(b) motion). Accordingly, we deny a certificate of appealability and dismiss the 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