UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 26-6335

RICKY VINCENT PENDLETON,

Petitioner - Appellant,

v.

DAVID BALLARD, Warden, Mount Olive Correctional Complex,

Respondent - Appellee.

Appeal from the United States District Court for the Northern District of West Virginia, at Martinsburg. John Preston Bailey, District Judge. (3:16-cv-00083-JPB-RWT)

Submitted: August 27, 2026 Decided: September 1, 2026

Before KING, HEYTENS, and BENJAMIN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Ricky Vincent Pendleton, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ricky Vincent Pendleton appeals the district court's order denying his Fed. R. Civ. P. 60(b) motion for relief from the district court's 2017 order denying his 28 U.S.C. § 2254 petition as untimely. The court determined that, to the extent Pendleton's motion raised new habeas claims, it should be treated as an unauthorized, successive 28 U.S.C. § 2254 petition and denied on that basis. The court alternatively found that, even considering Pendleton's motion as properly brought under Rule 60(b), the motion should be denied as untimely, as his claims were based on newly discovered evidence involving the abandonment of state habeas counsel but were not brought within one year of his original § 2254 petition as required by Rule 60(c)(1).

Our review of the record confirms that Pendleton's motion was properly brought under Rule 60(b), as it challenged the district court's determination that his original § 2254 petition was untimely and that he was not entitled to tolling of the limitations period. We further discern no reversible error in the court's determination that Pendleton's motion should be considered as one brought under Rule 60(b)(1) and therefore denied as untimely. *See* Fed. R. Civ. P. 60(c)(1). Accordingly, we deny Pendleton's motion for a certificate of appealability as unnecessary, *see United States v. Williams*, 56 F.4th 366, 370 n.3 (4th Cir. 2023), and affirm the district court's order. *Pendleton v. Ballard*, No. 3:16-cv-00083-JPB-RWT (N.D. W. Va. Mar. 3, 2026). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED