

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-6632

DAVID EDWARD CAVALIERI,

Petitioner - Appellant,

v.

COMMONWEALTH OF VIRGINIA,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (1:18-cv-00356-LMB-JFA)

Submitted: September 28, 2018

Decided: October 11, 2018

Before WYNN and DIAZ, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

David Edward Cavalieri, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Cavalieri appeals the district court's order denying leave to proceed in forma pauperis and dismissing without prejudice his 28 U.S.C. § 2254 (2012) petition for failure to pay the filing fee. We review for abuse of discretion an order denying a motion to proceed in forma pauperis (IFP). *Dillard v. Liberty Loan Corp.*, 626 F.2d 363, 364 (4th Cir. 1980). We conclude that the district court did not abuse its discretion in denying Cavalieri's IFP motion and, therefore, did not err in dismissing without prejudice Cavalieri's § 2254 petition. Accordingly, we grant Cavalieri's motion to proceed IFP in this court and affirm the district court's order. We deny as unnecessary Cavalieri's motion for a certificate of appealability. *See Harbison v. Bell*, 556 U.S. 180, 183 (2009). 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