

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-6104

JARRETT D. HOLDEN,

Petitioner - Appellant,

v.

HAROLD CLARKE, Director of VA. D.O.C.,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T.S. Ellis, III, Senior District Judge. (1:13-cv-01591-TSE-TRJ)

Submitted: April 23, 2014

Decided: May 9, 2014

Before NIEMEYER, DUNCAN, and WYNN, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Jarrett D. Holden, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jarrett D. Holden seeks to appeal the district court's order dismissing as successive his petition filed pursuant to 28 U.S.C. § 2254 (2012), in which he claimed that his sentence of mandatory life without parole is unconstitutional following the Supreme Court's decision in Miller v. Alabama, 132 S. Ct. 2455, 2460, 2469 (2012).

We granted Holden's motion for authorization to pursue this claim in the district court on June 16, 2013. In re: Holden, No. 13-264 (4th Cir. June 19, 2013) (unpublished order). Holden subsequently filed a successive § 2254 petition in the district court, which the district court dismissed without prejudice for failure to exhaust. The district court's order clearly stated that "Petitioner may resubmit his claims to [the district court] after he has exhausted them in the Supreme Court of Virginia." Holden v. Clarke, No. 1:13-cv-00897-TSE-TRJ (E.D. Va. Sept. 20, 2013).

The Supreme Court of Virginia dismissed Holden's petition for a writ of habeas corpus on November 7, 2013, and Holden refiled his § 2254 claim in the district court on December 27, 2013. The district court dismissed Holden's petition as an unauthorized, successive petition, and erroneously informed Holden that he needed to seek authorization from this court pursuant to 28 U.S.C. § 2244(b)(2) (2012).

Because we have already granted Holden the requisite authorization under § 2244, we find that the district court's procedural ruling was in error. We therefore grant leave to proceed in forma pauperis, grant a certificate of appealability, vacate the district court's order, and remand with instructions for the district court to consider Holden's petition. In so doing, we express no opinion as to the procedural or substantive merits of Holden's claims. 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.

VACATED AND REMANDED