UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6990

GARY D. WARD,

Plaintiff - Appellant,

v.

ERIC COOKE, Attorney; CIRCUIT COURT OF SOUTHAMPTON COUNTY, VIRGINIA,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, Chief District Judge. (2:15-cv-00050-RBS-DEM)

Submitted: November 13, 2015 Decided: November 23, 2015

Before WILKINSON and THACKER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Gary Dwayne Ward, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gary D. Ward appeals the district court's order and judgment dismissing his 42 U.S.C. § 1983 (2012) complaint without prejudice for failing to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii) (2012). We have reviewed the record and find no reversible error. Accordingly, we affirm substantially for the reasons stated by the district court. Ward v. Cooke, No. 2:15-cv-00050-RBS-DEM (E.D. Va. May 27, 2015).

We observe that Ward's claim that he complied with the requirements of Va. Code Ann. § 19.2.-327.1 (Supp. 2015), and yet was denied relief by the Virginia circuit court is unreviewable by the district court. See Skinner v. Switzer, 562 U.S. 521, 532 (2011). We also conclude that Ward failed to allege facts showing that Virginia's statutory procedures for establishing innocence based on biological testing are "fundamentally inadequate." Dist. Att'y's Office for the Third Jud. Dist. v. Osborne, 557 U.S. 52, 69 (2009) ("Federal courts may upset a State's postconviction relief procedures only if they are fundamentally inadequate to vindicate the substantive rights provided."). Finally, Ward failed to state a claim under § 1983 regarding an alleged defective jury instruction. 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