

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
MARK DAVIS, a/k/a Mark Coleman,
Defendant-Appellant.

No. 00-4022

Appeal from the United States District Court
for the District of South Carolina, at Columbia.
Solomon Blatt, Jr., Senior District Judge.
(CR-96-325)

Submitted: November 20, 2001

Decided: December 4, 2001

Before WIDENER, NIEMEYER, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

John D. Elliott, Columbia, South Carolina, for Appellant. Scott Schools, United States Attorney, Mark C. Moore, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Mark Davis appeals the amended judgment of conviction sentencing him to 120 months' imprisonment and 5 years' supervised release. He claims the district court erred by not permitting him to withdraw his guilty plea. This court instructed the district court on remand to either resentence Davis to a sentence not in excess of the 15 year term of imprisonment stated in the plea agreement or to reject the plea agreement and permit Davis to withdraw his guilty plea. The district court acted within its discretion to resentence Davis in accordance to the terms stated in the plea agreement. Accordingly, we affirm.

Davis' chief argument on appeal concerns motions he filed prior to his initial sentencing seeking to withdraw his guilty plea. In his initial appeal, Davis did not challenge the district court's decision not to permit him to withdraw his guilty plea. On remand, the district court was not authorized to revisit those issues raised in Davis' motions. *United States v. Armanony*, 166 F.3d 655, 662 (4th Cir. 1999); *United States v. Bell*, 5 F.3d 64, 67 (4th Cir. 1993).

We grant Davis' motions to file a pro se brief and a pro se supplemental brief. We find the issues raised in the briefs to be without merit or waived because they were not raised in the initial appeal. Davis' claims under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), are without merit. See *United States v. McAllister*, ___ F.3d ___, 2001 WL 1387341. *1-3 (4th Cir. Nov. 8, 2001) (No. 00-4423); *United States v. Lewis*, 235 F.3d 215, 219 (4th Cir. 2000).

Accordingly, we affirm the amended judgment of conviction. We grant Davis' motions to file a pro se brief and a supplemental pro se brief. We dispense with oral argument because the facts and legal conclusions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED