

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 00-4068

ALEXANDER M. KATES,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of West Virginia, at Clarksburg.
Irene M. Keeley, District Judge.
(CR-99-27)

Submitted: May 31, 2000

Decided: September 19, 2000

Before WIDENER, NIEMEYER, and LUTTIG, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Scott A. Curnutte, Elkins, West Virginia, for Appellant. Melvin W.
Kahle, Jr., United States Attorney, Stephen D. Warner, Assistant
United States Attorney, Clarksburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Alexander M. Kates appeals his conviction and sentence following his plea of guilty to distribution of LSD within 1000 feet of a school in violation of 21 U.S.C. §§ 841(a)(1), 860(a) (1994). Less than one week prior to his trial, Kates moved to substitute a retained attorney for his court-appointed defense counsel and further moved for a continuance to permit his new attorney to prepare for trial. After a hearing the district court denied both motions but stated that Kates' retained attorney could assist Kates' appointed counsel at trial. Approximately two hours after the court's ruling, Kates pleaded guilty to the drug charge. The district court sentenced Kates to 120 months' imprisonment. We affirm the conviction and sentence.

Kates claims that the district court's denial of his motion for a continuance pressured him to enter an involuntary guilty plea. We have reviewed the record and find that the district court conducted a proper colloquy pursuant to Fed. R. Civ. P. 11. Kates' statements at his plea hearing confirm that he was pleading guilty of his own free will, without threats, force or harassment. Kates cannot now disavow the statements he made at the plea hearing. See United States v. DeFusco, 949 F.2d 114, 119 (4th Cir. 1991); Via v. Superintendent, Powhatan Correctional Ctr., 643 F.2d 167, 171 (4th Cir. 1981). Accordingly, we find that Kates entered a valid guilty plea to the drug charge.

Kates' second contention on appeal is that the district court abused its discretion when it denied his motions to substitute counsel and for a continuance. The district court did not abuse its discretion in denying the motion to substitute counsel because, as the district court found, Kates' counsel was a competent attorney experienced in drug cases and the only reason cited for the motion was the serious nature of the charges. Furthermore, the district court did not abuse its discretion in denying the motion for a continuance because there was no reason to grant such a continuance once the motion for new counsel was denied.

We therefore affirm the district court's order of judgment and conviction. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

3

t