

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-4571

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARK L. SIMONS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (CR-98-375)

Submitted: January 31, 2001

Decided: March 19, 2001

Before WILKINS and NIEMEYER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Marvin D. Miller, LAW OFFICES OF MARVIN D. MILLER, Alexandria, Virginia, for Appellant. Helen F. Fahey, United States Attorney, G. David Hackney, Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

This case is before us on appeal of the district court's decision on remand as to whether government agents intentionally and deliberately disregarded the notice provisions of Fed. R. Crim. P. 41(d) such that the motion to suppress filed by Mark L. Simons should be granted. See United States v. Simons, 206 F.3d 392 (4th Cir. 2000). On remand, the district court heard evidence and had the opportunity to assess the credibility of the witnesses as to the pertinent issue. The district court concluded that the government's violation of Rule 41(d) in this case was, at most, negligent.

We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm the district court's decision. 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