

UNPUBLISHED

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

v.

KEVIN TINSLEY,  
*Defendant-Appellant.*

No. 00-6624

Appeal from the United States District Court  
for the Eastern District of Virginia, at Alexandria.  
Leonie M. Brinkema, District Judge.  
(CR-97-249-A, CA-99-1655-AM, CR-97-328-A, CA-99-1743-AM)

Submitted: November 30, 2000

Decided: December 20, 2000

Before WILLIAMS and MOTZ, Circuit Judges, and  
HAMILTON, Senior Circuit Judge.

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Dismissed in part, vacated in part, and remanded by unpublished per curiam opinion.

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**COUNSEL**

Kevin Tinsley, Appellant Pro Se. James L. Trump, OFFICE OF THE  
UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

**OPINION**

## PER CURIAM:

Kevin Tinsley seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2000). We have reviewed the record and the district court's opinion and find no reversible error on all but Tinsley's third claim. Accordingly, we deny a certificate of appealability and dismiss the appeal as to those claims on the reasoning of the district court. *United States v. Tinsley*, Nos. CR-97-249-A; CA-99-1655-AM; CR-97-328-A; CA-99-1743-AM (E.D. Va. Apr. 19, 2000).\*

In his third claim, Tinsley asserted that he was entitled to relief under *Jones v. United States*, 526 U.S. 227 (1999). In his supplemental memorandum to this court Tinsley cites to *Apprendi v. New Jersey*, 530 U.S. \_\_\_ 120 S. Ct. 2348 (2000), in support of this claim. We grant a certificate of appealability and vacate the district court's ruling on this issue, and remand for further consideration in light of *Apprendi*, which was decided after the district court's ruling in this case. On remand, the district court should consider the applicability of the *Apprendi* ruling to a case such as this on collateral review; the effect of Tinsley's failure to raise this issue at trial; and whether Tinsley's conviction under 18 U.S.C.A. § 1958 (West 2000), is affected by the *Apprendi* decision. We grant Tinsley's motion to file a supplemental memorandum; 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.

*DISMISSED IN PART, VACATED  
IN PART, AND REMANDED*

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\*Although the district court's order is marked as "filed" on April 14, 2000, the district court's record shows that it was entered on the docket sheet on April 19, 2000. Pursuant to Rules 58 and 79(a) of the Federal Rules of Civil Procedure, we take the date that the judgment or order was entered on the docket sheet as the effective date of the district court's decision. *Wilson v. Murray*, 806 F.2d 1232, 1234-35 (4th Cir. 1986).