

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-6688

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

SAMUEL OLEN MCCLAIN,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Anderson. Henry M. Herlong, Jr., District Judge. (CR-98-621, CA-00-577)

Submitted: September 20, 2000

Decided: October 19, 2000

Before WILKINS, WILLIAMS, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Samuel Olen McClain, Appellant Pro Se. E. Jean Howard, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Samuel Olen McClain 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 accepting the recommendation of the magistrate judge and find no reversible error. The sentence McClain received did not exceed the statutory maximum. Consequently, his claims of ineffective assistance of counsel and invalid plea agreement are meritless. Moreover, he failed to show any prosecutorial misconduct. We also find that the district court did not abuse its discretion by denying relief without requiring a response from the government. See Rule 4(b), Rules Governing § 2255 Proceedings. Accordingly, although we grant McClain's motion for general relief, we deny a certificate of appealability and dismiss the appeal. 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