

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-6781

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WENLEY MCCLAREN,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Elkins. W. Craig Broadwater, District Judge. (CR-90-7, CA-95-24-3)

Submitted: August 15, 2000

Decided: August 25, 2000

Before LUTTIG, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Wenley McClaren, Appellant Pro Se. Thomas Oliver Mucklow, Assistant United States Attorney, Martinsburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Wenley McClaren 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 memorandum opinion and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court.¹ See United States v. McClaren, Nos. CR-90-7; CA-95-24-3 (N.D.W. Va. May 19, 2000).² 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

¹ Contrary to McClaren's argument on appeal the certificate of appealability requirement applies to this appeal. See Slack v. McDaniel, ___ U.S. ___, 68 U.S.L.W. 4315, 4317 (U.S. Apr. 26, 2000) (No. 98-6322).

² Although the district court's order is marked as "filed" on May 12, 2000, the district court's records show that it was entered on the docket sheet on May 19, 2000. Pursuant to Rules 58 and 79(a) of the Federal Rules of Civil Procedure, it is the date that the order was entered on the docket sheet that we take as the effective date of the district court's decision. See Wilson v. Murray, 806 F.2d 1232, 1234-35 (4th Cir. 1986).