

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-7102

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TYRONE LAMONT SMITH, a/k/a Tyrone Eady, a/k/a
Blue,

Defendant - Appellant.

Appeal from the United States District Court for the Western Dis-
trict of Virginia, at Charlottesville. Henry C. Morgan, Jr., Dis-
trict Judge, sitting by designation. (CR-94-41)

Submitted: November 30, 2000

Decided: December 11, 2000

Before NIEMEYER, LUTTIG, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Tyrone Lamont Smith, Appellant Pro Se. Donald Ray Wolthuis, OFFICE
OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Tyrone Lamont Smith appeals the district court's order denying relief on his motion to vacate and reduce sentence under 18 U.S.C.A. § 3582(c) (West 2000) and a motion to reconsider sentence. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we deny Smith's motion to proceed in forma pauperis and affirm on the reasoning of the district court. See United States v. Smith, No. CR-94-41 (W.D. Va. filed Apr. 24, 2000; entered Apr. 25, 2000). We decline to address Smith's claim, raised for the first time on appeal, that his sentence violates Apprendi v. New Jersey, 120 S. Ct. 2348 (2000). See First Va. Banks, Inc. v. BP Exploration & Oil Inc., 206 F.3d 404, 407 n.1 (4th Cir. 2000) (declining to consider issues raised for first time on appeal); Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993) (holding that issues raised for first time on appeal generally will not be considered absent exceptional circumstances of plain error of fundamental miscarriage of justice). 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