

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 00-7124**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

KENNETH BROWN, a/k/a Sugar Bear,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Anderson. G. Ross Anderson, Jr., District Judge. (CR-97-170, CA-99-3666-8-13)

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Submitted: May 17, 2001

Decided: May 22, 2001

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Before WIDENER, NIEMEYER, and MICHAEL, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Robert Gregg Levitt, Denver, Colorado, for Appellant. E. Jean Howard, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Kenneth Brown 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. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court.\* See United States v. Brown, Nos. CR-97-170; CA-99-3666-8-13 (D.S.C. June 8, 2000). 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

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\* Brown claims on appeal that his sentence is not proper in light of the rule announced in Apprendi v. New Jersey, 530 U.S. 466 (2000). We recently held in United States v. Sanders, \_\_\_ F.3d \_\_\_, 2001 WL 369719 (4th Cir. Apr. 13, 2001) (No. 00-6281), that the new rule announced in Apprendi is not retroactively applicable to cases on collateral review. Accordingly, Brown's Apprendi claim is not cognizable.