

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-7456

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARTIN CHAVEZ-VELAZQUEZ,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (CR-99-325-A)

Submitted: February 28, 2001

Decided: April 2, 2001

Before LUTTIG, MOTZ, and TRAXLER, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

Martin Chavez-Velazquez, Appellant Pro Se. LeDora Knight, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM

Martin Chavez-Velazquez appeals the district court's orders denying his motion for return of personal property pursuant to Federal Rules of Criminal Procedure Rule 41(e) and denying reconsideration of that order. We have reviewed the record and the district court's opinion and orders and find no reversible error. Accordingly, we affirm substantially on the reasoning of the district court. United States v. Chavez-Velazquez, No. CR-99-325-A (E.D. Va. Sept. 15 and Oct. 12, 2000). We conclude, however, that in arguing ineffective assistance of counsel, Appellant was supporting his Rule 41(e) motion—not attacking the validity of his conviction or sentence pursuant to 28 U.S.C.A. § 2255 (West Supp. 2000). Therefore, we modify the district court's order to reflect that Appellant's motion is properly characterized as filed solely pursuant to Fed. R. Crim. P. 41(e), not § 2255. 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 AS MODIFIED