**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 00-7612**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TROY V. CLEVELAND,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Albert V. Bryan, Jr., Senior District Judge. (CR-93-402, CA-99-1030-AM)

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Submitted: May 31, 2001 Decided: June 12, 2001

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Before WILKINS, TRAXLER, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Troy V. Cleveland, Appellant Pro Se. James L. Trump, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Troy Cleveland appeals the district court's dismissal of his first motion for relief under 28 U.S.C.A. § 2255 (West 1994 & Supp. 2000) as time barred under the limitations period imposed under the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). See § 2255 ¶ 6. However, Cleveland fails to demonstrate that he could not reasonably have moved for relief under § 2255 within that one-year period, and acknowledges that he was aware of the factual predicate for his claim well before his one year window for filing a § 2255 motion closed. Accordingly, we deny a certificate of appealability, and dismiss the appeal because the district court properly dismissed Cleveland's § 2255 motion as time barred under the AEDPA. See Weaver v. United States, 195 F.3d 123, 124 (2d Cir. 1999); cf. United States v. Pregent, 190 F.3d 279, 284 (4th Cir. 1999) (ruling that to the extent the Appellant's motion "was more properly characterized as a collateral attack under 28 U.S.C.A. § 2255, th[at] motion was filed after the statute of limitations expired," and therefore properly denied). 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