

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-7775

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DERRICK ANTHONY JOHNSON,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, Chief District Judge. (CR-95-17, CA-98-762-7)

Submitted: May 31, 2001

Decided: June 6, 2001

Before WILKINS, TRAXLER, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Thomas Erwin Wray, Salem, Virginia, for Appellant. Ray B. Fitzgerald, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Charlottesville, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Derrick Anthony Johnson 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.* United States v. Johnson, Nos. CR-95-17; CA-98-762-7 (W.D. Va. Oct. 23, 2000). We deny Johnson's motion to substitute counsel. 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

* In his pro se supplemental brief, Johnson raises that his conviction and sentence are invalid because the drug quantity was not established in the indictment or proven beyond a reasonable doubt at trial. The district court denied Johnson's motion to add this claim to his complaint because it was untimely under the AEDPA and the claim did not relate back to the original complaint. Even if the claim were properly before us, it would fail under the reasoning of United States v. Sanders, 247 F.3d 139 (4th Cir. 2001).