

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MICHAEL ANTHONY CARTER, a/k/a
Big Mike,

Defendant-Appellant.

No. 01-4447

Appeal from the United States District Court
for the Middle District of North Carolina, at Durham.
Frank W. Bullock, Jr., District Judge.
(CR-00-64)

Submitted: January 23, 2002

Decided: February 8, 2002

Before WILKINS, MICHAEL, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Anne R. Littlejohn, LAW OFFICES OF ANNE R. LITTLEJOHN,
Greensboro, North Carolina, for Appellant. Anna Mills Wagoner,
United States Attorney, Steven H. Levin, Assistant United States
Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Michael Anthony Carter was found guilty by a jury of one count of conspiracy to distribute cocaine base in violation of 21 U.S.C.A. § 841(a)(1) (West 1999 & Supp. 2001). Carter was sentenced, pursuant to 21 U.S.C.A. § 841(b)(1)(A) (West 1999 & Supp. 2001), to 360 months imprisonment and five years of supervised release. Carter appeals the district court's denial of his Fed. R. Crim. P. 29 motion for acquittal based on insufficiency of the evidence. Five co-conspirators testified to Carter's drugs transactions over the course of the charged conspiracy, and two law enforcement officers gave testimony relating the content of two confessions Carter made to them about his drug transactions as described in the indictment. Because the jury's determination regarding the witnesses' testimony is not reviewable, Carter's appeal challenging the sufficiency of the evidence is meritless. *See Glasser v. United States*, 315 U.S. 60, 80 (1942); *United States v. Romer*, 148 F.3d 359, 364 (4th Cir. 1998); *United States v. Burgos*, 94 F.3d 849, 862 (4th Cir. 1996) (en banc).

Carter also appeals the district court's denial of his motion to continue his sentencing hearing when a transcript of the trial was not prepared prior to the hearing. We find no abuse of the court's discretion. *Morris v. Slappy*, 461 U.S. 1, 11-12 (1983); *United States v. Speed*, 53 F.3d 643, 644 (4th Cir. 1995).

To the extent that Carter raises an ineffective assistance of counsel claim, the record does not demonstrate conclusively that counsel failed to provide effective representation. *See United States v. King*, 119 F.3d 290, 295 (4th Cir. 1997).

We affirm Carter's conviction and sentence. We deny Carter's motion to appoint new counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the

material before the court and argument would not aid in the decisional process.

AFFIRMED