

UNPUBLISHED  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

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i>  v.  JAMES G. TURNER, <i>Defendant-Appellant.</i>
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No. 01-4540

Appeal from the United States District Court  
for the Eastern District of Virginia, at Richmond.  
James R. Spencer, District Judge.  
(CR-98-324)

Submitted: November 28, 2001

Decided: January 24, 2002

Before WIDENER, WILKINS, and KING, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

Edwin Frederick Brooks, Richmond, Virginia, for Appellant. Paul J. McNulty, United States Attorney, Stephen W. Miller, Assistant United States Attorney, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

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**OPINION**

## PER CURIAM:

James G. Turner appeals the revocation of his supervised release and the imposition of a nine-month prison term. Turner contends the district court erred in considering a conviction that was not noted in a "Petition on Probation." Turner also contends the district court abused its discretion in failing to consider alternatives to incarceration. Finding no error, we affirm.

Turner contends the district court committed plain error when it considered a charge that had not been previously noted in sentencing him. Because Turner did not raise this issue in the district court, we review for plain error. *United States v. Olano*, 507 U.S. 725, 731-32 (1993). We conclude the district court did not consider Turner's second assault charge in its decisions to revoke supervised release and to sentence Turner to nine months' imprisonment. Therefore, we find no plain error. We further conclude the district court did not abuse its discretion in sentencing Turner to nine months' incarceration rather than to an alternative form of punishment.

For these reasons, we affirm Turner's conviction and sentence. 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*