

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-6020**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL SCOTT MCRAE,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Malcolm J. Howard, District Judge. (CR-97-94-5-H, CA-00-465-5)

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Submitted: May 18, 2001

Decided: May 31, 2001

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Before WIDENER and WILKINS, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Michael Scott McRae, Appellant Pro Se. Rudolf A. Renfer, Jr., Assistant United States Attorney, Robert Edward Skiver, Assistant United States Attorney, John Howarth Bennett, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Michael Scott McRae 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 substantially on the reasoning of the district court.\* United States v. McRae, Nos. CR-97-94-5-H; CA-00-465-5 (E.D.N.C. Dec. 15, 2000). 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

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\* We recently held in United States v. Sanders, \_\_\_ F.3d \_\_\_, 2001 WL 369719 (4th Cir. Apr. 13, 2001) (No. 00-6281), that the new rule announced in Apprendi v. New Jersey, 530 U.S. 466 (2000), is not retroactively applicable to cases on collateral review. Accordingly, McRae's Apprendi claim is not cognizable.