

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6228

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LANCELOT WADDINGTON GIBBS,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, Chief District Judge. (CR-91-86, CA-98-124-3-MU)

Submitted: June 15, 2001

Decided: September 10, 2001

Before WILKINS, NIEMEYER, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Lancelot Waddington Gibbs, Appellant Pro Se. Karen Elise Eady, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Lancelot Waddington Gibbs 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. Gibbs, Nos. CR-91-86; CA-98-124-3-MU (W.D.N.C. Jan. 5, 2001). 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

* We recently held in United States v. Sanders, 247 F.3d 139 (4th Cir. 2001), 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, Gibbs' Apprendi claim is not cognizable.