

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6290

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

VERNON PONDS,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Spartanburg. Henry M. Herlong, Jr., District Judge. (CR-95-370)

Submitted: May 31, 2001

Decided: June 8, 2001

Before WILKINS, TRAXLER, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Vernon Ponds, Appellant Pro Se. Kevin Frank McDonald, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Vernon Ponds 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. Ponds, No. CR-95-370 (D.S.C. filed Dec. 20, 2000; entered Dec. 21, 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

* 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, Ponds's Apprendi claim is not cognizable.