

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-6375**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DONALD CLINTON BURTON,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, District Judge. (CA-01-37-7)

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Submitted: April 27, 2001

Decided: May 7, 2001

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Before LUTTIG and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Donald Clinton Burton, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Donald Clinton Burton 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 Burton's motion to proceed in forma pauperis, deny a certificate of appealability, and dismiss the appeal substantially on the reasoning of the district court.\* See United States v. Burton, No. CA-01-37-7 (W.D. Va. Feb. 8, 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

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\* We recently held in United States v. Sanders, \_\_\_ F.3d \_\_\_, 2000 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, Appellant's Apprendi claim is not cognizable.