

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6508

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES EDWARD ELLERBE,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (CR-97-100)

Submitted: June 21, 2001

Decided: July 3, 2001

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

Affirmed by unpublished per curiam opinion.

James Edward Ellerbe, Appellant Pro Se. John Samuel Bowler, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

James Edward Ellerbe appeals the district court's orders denying his motions for correction of the docket sheet, for a speedy trial, for a court order, for assignment of counsel, and for a subpoena. All of Ellerbe's motions relate to his conviction for aiding and abetting a conspiracy to possess with intent to distribute and distribution of cocaine base in violation of 18 U.S.C.A. § 2 (West 2000) and 21 U.S.C.A. §§ 841(a)(1), 846 (West 1999 & Supp. 2000), which we affirmed on direct appeal. See United States v. Ellerbe, No. 98-4058, 1999 WL 64289 (4th Cir. Feb. 11, 1999) (unpublished).

The proper basis to seek to invalidate a conviction is a motion pursuant to 28 U.S.C.A. § 2255 (West 1994 & Supp. 2000). Because Ellerbe has previously filed a motion seeking relief under § 2255, see United States v. Ellerbe, No. 00-7472, 2000 WL 1862099 (4th Cir. Dec. 20, 2000) (unpublished), however, he must seek authorization from this Court under 28 U.S.C.A. § 2244 (West 1994 & Supp. 2000) prior to filing a successive motion under § 2255. Because Ellerbe has not sought this authorization, the district court properly denied his motions.

Accordingly, we deny Ellerbe's motion for appointment of counsel on appeal and affirm the orders of the district court. 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