

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6692

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CHORYA A. STATON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Robert G. Doumar, Senior District Judge. (CR-93-49, CA-99-832-2)

Submitted: December 20, 2001

Decided: December 27, 2001

Before LUTTIG, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Chorya A. Staton, Appellant Pro Se. Arenda L. Wright Allen, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Chorya A. Staton seeks to appeal the district court's order denying his motion filed under Fed. R. Civ. P. 59(e), which the court properly construed as a Fed. R. Civ. P. 60(b) motion. In his motion, Staton sought reconsideration of the court's denial of his 28 U.S.C.A. § 2255 (West Supp. 2001) motion. 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. Staton, Nos. CR-93-49; CA-99-832-2 (E.D. Va. Mar. 2, 2001); see United States v. Sanders, 247 F.3d 139, 151 (4th Cir. 2001) (holding that rule announced in Apprendi v. New Jersey, 530 U.S. 466 (2000), is not retroactively applicable to cases on collateral review), cert. denied, ___ U.S. ___, 2001 WL 1244813 (U.S. Nov. 13, 2001) (No. 01-6715). 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