

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6946

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

PATRICK LEWIS RUDD, a/k/a One-Eyed Louie,
a/k/a Louie,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. Malcolm J. Howard, District Judge. (CR-97-63, CA-01-49-7-H)

Submitted: October 18, 2001

Decided: October 26, 2001

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

Dismissed by unpublished per curiam opinion.

Patrick Lewis Rudd, Appellant Pro Se. Rudolf A. Renfer, Jr., Assistant United States Attorney, J. Frank Bradsher, Anthony Emerson Flanagan, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Patrick Lewis Rudd seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001). Because Rudd's motion was filed outside the one-year limitation period, 28 U.S.C.A. § 2255, the district court properly dismissed the motion. See United States v. Sanders, 247 F.3d 139 (4th Cir. 2001) (holding that new rule announced in Apprendi v. New Jersey, 530 U.S. 466 (2000), is not retroactively applicable to cases on collateral review, for purposes of determining the limitation period under § 2255(3)). Accordingly, we deny a certificate of appealability and dismiss the appeal. 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