

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-6960**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

EMJADIA PORTER,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, Chief District Judge. (CR-94-37, CA-00-679-7)

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Submitted: October 24, 2001

Decided: November 7, 2001

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

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Dismissed by unpublished per curiam opinion.

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Emjadia Porter, Appellant Pro Se. Karen Breeding Peters, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Emjadia Porter seeks to appeal the district court's orders denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001) and his motion for reconsideration. Porter challenged his conviction and sentence under Apprendi v. New Jersey, 530 U.S. 466 (2000). Because Apprendi is not retroactively applicable to cases on collateral review, the district court properly denied relief on this claim. United States v. Sanders, 247 F.3d 139, 151 (4th Cir. 2001), pet. for cert. filed (Oct. 9, 2001) (No. 01-6715). We find that the district court properly found that Porter's remaining claim was successive. In re Taylor, 171 F.3d 185, 187-88 (4th Cir. 1999). 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