

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7020

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

OBED HOYTE,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. Henry C. Morgan, Jr., District Judge, sitting by designation. (CR-93-10)

Submitted: November 8, 2001

Decided: November 16, 2001

Before WILKINS, MICHAEL, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Obed Hoyte, Appellant Pro Se. Ruth Elizabeth Plagenhoef, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Obed Hoyte seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001). 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. Hoyte, No. CR-93-10 (W.D. Va. May 21, 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

* In his informal brief, Hoyte states he filed an amendment to his § 2255 motion prior to the district court's decision in this matter which was not considered by the district judge rendering the decision on the original § 2255 motion, but rather by a different judge who construed it as a new § 2255 motion and dismissed it as untimely. Because it is clear that the additional claims Hoyte sought to raise by way of amendment were, like the claims raised in the original motion, clearly barred by the one-year statute of limitations in the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, § § 105, 110 Stat. 1214, 1220 (amending 28 U.S.C. § 2255), the fact the judge in this matter failed to consider those claims as part of this matter does not constitute error.