

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7030

ALFRED SMITH,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA; GEORGE SNYDER,

Respondents - Appellees.

Appeal from the United States District Court for the Western District of Virginia, at Asheville. Lacy H. Thornburg, District Judge. (CA-01-78-1)

Submitted: August 23, 2001

Decided: September 5, 2001

Before WILKINS and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed as modified by unpublished per curiam opinion.

Alfred Smith, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Alfred Smith appeals the district court's order denying relief on his petition filed under 28 U.S.C. § 2241 (1994). We have reviewed the record and the district court's opinion and find no reversible error. Although the district court found that Smith could not proceed under § 2241 with his claims challenging the legality of his convictions, we find that the court lacked jurisdiction over Smith's petition because a § 2241 petition must be filed in the district of confinement—here, Kentucky. United States v. Miller, 871 F.2d 488, 490 (4th Cir. 1989). Accordingly, we affirm the denial of relief on the ground that the district court lacked jurisdiction but modify the dismissal to be without prejudice. 28 U.S.C. § 2106 (1994). 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 AS MODIFIED