

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7082

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GERALD RANDOLPH WALL,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James P. Jones, District Judge. (CR-98-61)

Submitted: September 20, 2001

Decided: October 10, 2001

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

Dismissed by unpublished per curiam opinion.

Gerald Randolph Wall, Appellant Pro Se. Thomas Jack Bondurant, Jr., Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Gerald Randolph Wall seeks to appeal the district court's order denying relief under 28 U.S.C.A. § 2255 (West Supp. 2001). Wall pled guilty to one count of unlawful possession of a firearm in violation of 18 U.S.C.A. § 922(g)(1) (West 2000). Wall argues a 1974 conviction for burglary of a house trailer was improperly used as a sentence enhancement under 18 U.S.C.A. § 924(e) (West 2000). Because he did not raise this nonconstitutional issue in his direct appeal, it is deemed waived in his § 2255 motion. Stone v. Powell, 428 U.S. 465, 477 n.10 (1976); United States v. Emanuel, 869 F.2d 795, 796 (4th Cir. 1989).

In his notice of appeal, Wall challenged the district court's ruling on his ineffective assistance of counsel claim; however, because he did not raise his ineffective assistance of counsel claim in his brief, the issue is deemed waived. See Canady v. Crestar Mortgage Corp., 109 F.3d 969, 973-74 (4th Cir. 1997); 4th Cir. R. 34(b). 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