

UNPUBLISHED

**UNITED STATES COURT OF APPEALS**  
**FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

v.

EMMETT MADISON GRAHAM, JR.,  
*Defendant-Appellant.*

No. 01-7403

Appeal from the United States District Court  
for the Eastern District of North Carolina, at Wilmington.  
James C. Fox, Senior District Judge.  
(CR-97-98, CA-00-206-7-F)

Submitted: January 31, 2002

Decided: February 25, 2002

Before LUTTIG, TRAXLER, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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**COUNSEL**

Emmett Madison Graham, Jr., Appellant Pro Se. Paul Martin Newby,  
OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North  
Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

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**OPINION**

## PER CURIAM:

Emmett Madison Graham, Jr., seeks to appeal the district court's order denying in part and granting in part 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. In his informal brief, Graham attempts to make several new claims of error regarding the district court's jurisdiction over the original criminal offenses. Because he failed to raise these claims in his 28 U.S.C.A. § 2255 motion before the district court, this court may not now consider their merits. *See United States v. One 1971 Mercedes Benz*, 542 F.2d 912, 915 (4th Cir. 1976). Because Graham does not raise any claims in his informal brief that he raised below he has waived review of the claims. *See* 4th Cir. R. 34(b) (claims raised in the district court but not addressed in the brief on appeal are waived for review). To the extent that Graham's informal brief can be construed as attacking his conviction and sentence under *Apprendi v. New Jersey*, 530 U.S. 466 (2000), the district court correctly found that the claims are barred by our decision in *United States v. Sanders*, 247 F.3d 139 (4th Cir.), *cert denied*, 70 U.S.L.W. 3339 (U.S. Nov. 13, 2001) (No. 01-6715). Accordingly, we deny a certificate of appealability, deny Graham's motion for appointment of counsel, 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*