

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 01-7422**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LUCIOUS WAYNE DAYE,

Defendant - Appellant.

---

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Richard L. Voorhees, District Judge. (CR-96-9-V, CA-01-120-2-5-V)

---

Submitted: January 31, 2002

Decided: February 6, 2002

---

Before NIEMEYER, WILLIAMS, and MICHAEL, Circuit Judges.

---

Dismissed by unpublished per curiam opinion.

---

Lucious Wayne Daye, Appellant Pro Se. Robert Jack Higdon, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Lucious Wayne Daye appeals the district court's order dismissing his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001) as time-barred under the Antiterrorism and Effective Death Penalty Act (AEDPA). We have reviewed the record and the district court's opinion and find no reversible error.\* See United States v. Daye, Nos. CR-96-9-V; CA-01-120-2-5-V (W.D.N.C. July 25, 2001). 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

---

\* While Daye did not receive notice and an opportunity to respond prior to dismissal as required by our recent decision in Hill v. Braxton, No. 00-7408, 2002 WL 45893 (4th Cir. Jan. 14, 2002) (published), which issued subsequent to the district court's order, we find no harmful error as Daye's challenges to the applicability of the statutory limitations period fail as a matter of law.