

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7661

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ROBERT BRUCE GILLINS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca B. Smith, District Judge. (CR-94-163)

Submitted: May 29, 2002

Decided: September 6, 2002

Before MICHAEL, MOTZ, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Robert Bruce Gillins, Appellant Pro Se. Laura P. Tayman, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Robert Bruce Gillins seeks to appeal the district court's order denying his petition filed under 28 U.S.C. § 2241 (1994), which the district court construed as a motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001), and dismissed as successive. 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. Gillins, No. CR-94-163 (E.D. Va. filed July 23, 2001; entered July 24, 2001); see San-Miguel v. Dove, ____ F.3d ____, 2002 WL 1020723 (4th Cir. May 21, 2002) (holding that rule announced in Apprendi v. New Jersey, 530 U.S. 466 (2000), does not apply retroactively to cases on collateral review regardless of whether action is filed under § 2255 or § 2241). 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