

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

RICHARD ALLEN SMITH, JR.,
Defendant-Appellant.

No. 02-4260

Appeal from the United States District Court
for the Northern District of West Virginia, at Elkins.
Frederick P. Stamp, Jr., District Judge.
(CR-00-7)

Submitted: October 29, 2002

Decided: November 26, 2002

Before WILKINS, WILLIAMS, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Darryl W. Ringer, Natalie J. Sal, LAW OFFICES OF DARRELL W. RINGER, Morgantown, West Virginia, for Appellant. Thomas E. Johnston, United States Attorney, Sherry L. Muncy, Assistant United States Attorney, Clarksburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Richard Allen Smith, Jr., appeals his convictions of various drug and firearm offenses and corresponding 646-month term of imprisonment. Smith raises three claims on appeal: (1) that the district court erroneously failed to grant his motion for a new trial on his convictions for Counts 39, 45, and 46; (2) that the district court erroneously precluded him from fully cross-examining government witnesses from the West Virginia State Police Laboratory about alleged mishandling of evidence at the lab; and (3) that the jury was improperly empaneled so as to deny him the Sixth Amendment guarantee of a "fair cross-section" of the community.

We conclude Smith's contentions are meritless. The evidence overwhelmingly supported each of Smith's convictions for conduct alleged in Counts 39, 45, and 46, and the district court did not abuse its discretion in denying Smith's motion for a new trial. *See United States v. Russell*, 221 F.3d 615, 619 (4th Cir. 2000). Likewise, the court's actions in sustaining objections to Smith's cross-examination of lab witnesses were entirely proper, given that Smith attempted to reference statements and persons not developed in the record and not pertinent to his trial. Finally, Smith's claim of the denial of a "fair cross-section" of the community in his jury pool is meritless. *See Duren v. Missouri*, 439 U.S. 357, 364 (1979); *Truesdale v. Moore*, 142 F.3d 749, 755 (4th Cir. 1998); *United States v. Cecil*, 836 F.2d 1431, 1445-46 (4th Cir. 1988) (en banc).

Accordingly, we affirm Smith's convictions and sentence. 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