

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-6211

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAPHITH ORLANDO TATE,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., Chief District Judge. (CR-98-281, CA-01-468-1)

Submitted: April 25, 2002

Decided: May 8, 2002

Before WILLIAMS and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Japhith Orlando Tate, Appellant Pro Se. Angela Hewlett Miller, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Japhith Orlando Tate seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001). We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we deny leave to proceed in forma pauperis, deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Tate, Nos. CR-98-281; CA-01-468-1 (M.D.N.C. Nov. 30, 2001). 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