

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i> v. KENNETH MARION HAMPTON, <i>Defendant-Appellant.</i>

No. 02-6287

Appeal from the United States District Court
for the District of South Carolina, at Orangeburg.
Cameron McGowan Currie, District Judge.
(CR-00-616, CA-01-2964-5-22)

Submitted: May 30, 2002

Decided: June 11, 2002

Before WILKINS, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Kenneth Marion Hampton, Appellant Pro Se. Stacey Denise Haynes,
OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South
Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Kenneth Marion Hampton seeks to appeal the dismissal of his 28 U.S.C.A. § 2255 (West Supp. 2001) motion challenging his conviction and ten-year sentence imposed following his guilty plea to one count of disqualified possession of a firearm by a felon, *see* 18 U.S.C.A. § 922(g)(1) (West 2000). For the following reasons, we dismiss Hampton's appeal.

We find no merit in any of Hampton's ineffective assistance of counsel claims. *See Strickland v. Washington*, 466 U.S. 668 (1984). The district court was entitled to rely on conduct charged in a dismissed count of Hampton's indictment in enhancing Hampton's offense level under *U.S. Sentencing Guidelines Manual* § 2K2.1(b)(5) (2000). *See United States v. Williams*, 880 F.2d 804, 805 (4th Cir. 1989). Similarly, the court properly relied on Hampton's prior state convictions in the calculation of his criminal history. *See Daniels v. United States*, 532 U.S. 374, 382 (2001). Therefore, Hampton did not receive ineffective assistance of counsel in these respects. Finally, Hampton's ineffective assistance claim predicated on *United States v. Lopez*, 514 U.S. 549 (1995), is equally meritless. *See United States v. Wells*, 98 F.3d 808, 811 (4th Cir. 1996) (citing cases).

Accordingly, we deny a certificate of appealability and dismiss Hampton's 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