

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-6735

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

SEAN LAMONT DUDLEY, a/k/a John D. Brown,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Richard L. Voorhees, District Judge. (CR-97-1-V, CA-99-152-V)

Submitted: August 2, 2002

Decided: September 20, 2002

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

Dismissed by unpublished per curiam opinion.

Sean Lamont Dudley, 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Unpublished opinions are not binding precedent in this circuit.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:

Sean Lamont Dudley seeks to appeal the district court's order denying his motion filed under 28 U.S.C. § 2255 (2000). 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 substantially on the reasoning of the district court.* United States v. Dudley, Nos. CR-97-1-V; CA-99-152-V (W.D.N.C. Mar. 28, 2002). 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

* Dudley's claim of sentencing error based on Apprendi v. New Jersey, 530 U.S. 466 (2000), is barred because it is raised initially on this appeal, see Muth v. United States, 1 F.3d 246, 250 (4th Cir. 1993), and because Apprendi is not retroactively applicable on collateral review. See United States v. Sanders, 247 F.3d 139, 151 (4th Cir. 2001). Moreover, Dudley may not challenge the validity of his state conviction in a § 2255 proceeding. See Daniels v. United States, 532 U.S. 374, 376, 382 (2001).