

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-7044**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

PAUL H. VANHOOSE,

Defendant - Appellant.

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Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. Charles H. Haden II, Chief District Judge. (CA-01-977-5)

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Submitted: October 8, 2002

Decided: October 22, 2002

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Before WILLIAMS, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Paul H. VanHoose, Appellant Pro Se. Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Paul H. Van Hoose\* seeks to appeal the district court's order construing his 28 U.S.C. § 2241 (2000) petition as a 28 U.S.C. § 2255 (2000) motion and dismissing it as untimely. We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and conclude on the reasoning of the district court that Van Hoose has not made a substantial showing of the denial of a constitutional right. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. See United States v. Van Hoose, No. CA-01-977-5 (S.D.W. Va. filed June 24, 2002; entered June 25, 2002). We also deny Van Hoose's motion to consolidate. 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

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\* Because there is a discrepancy as to the spelling of Appellant's last name, we note that we have used the spelling from the district court's docket sheet. However, in his papers filed with this court, Appellant spelled his last name "VanHoose."