

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-4881**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOHN WAYNE LUNSFORD,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., Chief District Judge. (CR-01-379)

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Submitted: June 26, 2006

Decided: July 21, 2006

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Before WILKINSON, NIEMEYER, and MOTZ, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Charles O. Peed, Jr., CHARLES PEED AND ASSOCIATES, P.A., Winston-Salem, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Douglas Cannon, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

John Wayne Lunsford appeals the district court's order revoking his supervised release.\* This court reviews a district court's revocation of supervised release for abuse of discretion. United States v. Copley, 978 F.2d 829, 831 (4th Cir. 1992).

We have reviewed the record and find no reversible error. A violation of a condition of supervised release must be proved by a preponderance of the evidence. See 18 U.S.C.A. § 3583(e)(3) (2000); Johnson v. United States, 529 U.S. 694, 700 (2000). Here, the district court conducted a hearing, and the Government's witnesses testified that Lunsford possessed and discharged a firearm. The court found, after assessing the witnesses' credibility and by a preponderance of the evidence, that Lunsford violated the terms of supervised release, and ordered revocation on that basis. The district court's finding of witness credibility in the revocation hearing is not reviewable. See United States v. Saunders, 886 F.2d 56, 60 (4th Cir. 1989).

Accordingly, we affirm the district court's judgment revoking Lunsford's supervised release. We dispense with oral argument because the facts and legal contentions are adequately

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\*Lunsford does not challenge the twenty-four month term of imprisonment imposed upon revocation.

presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED