

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-7268**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WAYNE PORTER,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Richard L. Voorhees, Chief District Judge. (CR-85-62; CA-05-306)

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Submitted: January 19, 2006

Decided: January 25, 2006

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Before WILKINSON, TRAXLER, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Wayne Porter, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Wayne Porter, who was convicted in 1985 of conducting a continuing criminal enterprise, appeals the denial of his motion under former Fed. R. Crim. P. 35(a). Porter asserts that his conviction violated the Double Jeopardy Clause. However, Rule 35(a) is limited to claims that a sentence itself is illegal and may not be used to further a claim that the conviction underlying a sentence is invalid. United States v. Little, 392 F.3d 671, 678 (4th Cir. 2004) (rejecting attempt to challenge conviction on double jeopardy grounds under former Rule 35(a)). In addition, Porter's double jeopardy claim was rejected in his initial 28 U.S.C. § 2255 (2000) motion. Accordingly, we affirm the order of the district court. We dispense with oral argument, because the fact and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED