

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6417

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARTIN AVERY HUGHES,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Abingdon. James P. Jones, Chief District Judge. (1:08-cr-00024-jpj-mfu-35)

Submitted: September 21, 2010

Decided: November 4, 2010

Before MOTZ, KING, and DUNCAN, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam opinion.

Martin Avery Hughes, Appellant Pro Se. Jennifer R. Bockhorst, Assistant United States Attorney, Abingdon, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Martin Avery Hughes seeks to appeal the district court's order denying his motions to dismiss the indictment and to suppress evidence, filed after the court sentenced Hughes to 262 months of imprisonment following his guilty plea to conspiracy to distribute and possess with intent to distribute cocaine and cocaine base, in violation of 21 U.S.C. § 846 (2006). The Government has moved to dismiss the appeal based on Hughes' waiver of his appellate rights in his plea agreement. Upon review of the plea agreement and the transcript of the Fed. R. Crim. P. 11 hearing, we conclude that Hughes knowingly and voluntarily waived his right to appeal. Moreover, with the exception of Hughes' claim that his attorney rendered ineffective assistance, the issues Hughes seeks to appeal fall squarely within the terms of the appellate waiver to which he agreed. With respect to Hughes' claim that his trial counsel rendered ineffective assistance, we conclude that ineffective assistance does not conclusively appear on the record and, therefore, decline to consider this claim on direct review. See United States v. Baldovinos, 434 F.3d 233, 239 (4th Cir. 2006). Accordingly, we grant the Government's motion to dismiss the appeal in part, affirm Hughes' conviction, and deny Hughes' motion for transcripts at government expense. 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.

AFFIRMED IN PART;
DISMISSED IN PART