

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6639

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LATCHMIE NARAYAN TOOLASPRASHAD,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (3:85-cr-00045-BO-1)

Submitted: August 19, 2010

Decided: August 30, 2010

Before MOTZ, GREGORY, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Latchmie Narayan Toolasprashad, Appellant Pro Se. Joshua Bryan Royster, UNITED STATES DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Latchmie Narayan Toolasprashad appeals a district court order construing his filing as a successive 28 U.S.C.A. § 2255 (West Supp. 2010) motion and denying relief. We have reviewed the record and the district court's order and conclude the court correctly held it could not consider a second or successive § 2255 motion. We have considered Toolasprashad's claim that the court erred by not considering that he was seeking relief under Fed. R. Crim. P. 33 and conclude Toolasprashad is not entitled to relief under Rule 33.

Accordingly, we affirm the district court's order. We deny Toolasprashad's motion for appointment of counsel and we grant his motion to seal exhibits. 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