

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6764

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BERNARD GIBSON, SR., a/k/a Bernard Willis,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, Senior District Judge. (8:94-cr-00454-PJM-2)

Submitted: July 22, 2010

Decided: August 3, 2010

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Bernard Gibson, Sr., Appellant Pro Se. Sandra Wilkinson, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bernard Gibson, Sr., appeals the district court's denial of his petition for a writ of audita querela. We have reviewed the record and find no reversible error. "[A] writ of audita querela is not available to a petitioner when other remedies exist, such as a motion to vacate sentence under 28 U.S.C.[A.] § 2255 [(West Supp. 2010)]." United States v. Torres, 282 F.3d 1241, 1245 (10th Cir. 2002) (internal quotation marks omitted); United States v. Valdez-Pacheco, 237 F.3d 1077, 1079 (9th Cir. 2001) (same). The fact that Gibson cannot proceed under § 2255 unless he obtains authorization from this court to file a successive motion does not alter this conclusion. See Carrington v. United States, 503 F.3d 888, 890 (9th Cir. 2007) ("[T]he statutory limits on second or successive habeas petitions do not create a 'gap' in the post-conviction landscape that can be filled with the common law writs."), amended on other grounds by 530 F.3d 1183 (9th Cir. 2008). Accordingly, we affirm. 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