

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7713

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LOUIS VINCENT BROWN,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Patrick Michael Duffy, Senior District Judge. (2:07-cr-00422-PMD-1; 2:10-cv-70163-PMD)

Submitted: December 13, 2012

Decided: December 19, 2012

Before MOTZ, WYNN, and FLOYD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis Vincent Brown, Appellant Pro Se. Alston Calhoun Badger, Jr., Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Louis Vincent Brown appeals the district court's order denying his motion requesting that counsel be appointed to him for the purpose of examining whether this court's decision in United States v. Simmons, 649 F.3d 237, 243-45 (4th Cir. 2011) (en banc), directs that one of his prior state convictions no longer qualifies as a felony and therefore entitles him to a reduction of sentence.

We have reviewed the record and find no reversible error. Indeed, as we have recently explained, our holding in Simmons is not retroactively applicable to cases on collateral review. United States v. Powell, 691 F.3d 554, 559-60 (4th Cir. 2012). Nor, in any event, does a habeas petitioner have any constitutional right to be represented by counsel in his collateral attack. Rouse v. Lee, 339 F.3d 238, 250 (4th Cir. 2003).

Accordingly, we affirm the judgment of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED