

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-4967

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHNNY KINLAW LOCKLEAR, JR., a/k/a Bully,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Fox, Senior District Judge. (7:12-cr-00062-F-1)

Submitted: August 4, 2014

Decided: August 7, 2014

Before SHEDD, DIAZ, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Phillip C. Zane, GEYERGOREY LLP, Washington, D.C., for Appellant. Thomas G. Walker, United States Attorney, Jennifer P. May-Parker, Yvonne V. Watford-McKinney, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Johnny Kinlaw Locklear, Jr. appeals the district court's judgment after pleading guilty to possessing firearms subsequent to a felony conviction. On appeal, he contends the district court erred in denying his request for a hearing under Franks v. Delaware, 438 U.S. 154 (1978), which he made in his pre-plea motion to suppress evidence. We dismiss the appeal.

"This court has recognized that, pursuant to Rule 11(a)(2) of the Federal Rules of Criminal Procedure, the direct review of an adverse ruling on a pretrial motion is available only if the defendant expressly preserves that right by entering a conditional guilty plea." United States v. Abramski, 706 F.3d 307, 314 (4th Cir.), cert. granted, 134 S. Ct. 421 (2013), and aff'd, 134 S. Ct. 2259 (2014) (citations and internal quotations omitted). Absent a valid conditional guilty plea, we "will dismiss a defendant's appeal from an adverse pretrial ruling on a non-jurisdictional issue." Id. (citation and internal quotations omitted); see also Tollett v. Henderson, 411 U.S. 258, 267 (1973); Haring v. Prosise, 462 U.S. 306, 321 (1983). Because Locklear did not enter a conditional guilty plea, we may not review the district court's adverse pretrial ruling.

Accordingly, we dismiss the appeal. 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.

DISMISSED