

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6139

VICTOR GLEN WILKES,

Petitioner - Appellant,

v.

WARDEN, FCI EDGEFIELD,

Respondent - Appellee,

and

UNITED STATES OF AMERICA,

Respondent.

Appeal from the United States District Court for the District of South Carolina, at Anderson. Terry L. Wooten, Chief District Judge. (8:12-cv-03046-TLW)

Submitted: May 30, 2013

Decided: June 5, 2013

Before SHEDD, DIAZ, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Victor Glen Wilkes, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Victor Glen Wilkes, a federal prisoner, appeals the district court's order accepting the recommendation of the magistrate judge and denying relief on his 28 U.S.C.A. § 2241 (West 2006 & Supp. 2012) petition. We have reviewed the record and find no reversible error. We further find that the district court correctly rejected Wilkes' alternative request for a writ of audita querela because he had available another remedy, a 28 U.S.C.A. § 2255 (West Supp. 2012) motion.* Accordingly, although we grant leave to proceed in forma pauperis, we affirm for the reasons stated by the district court. Wilkes v. Warden, No. 8:12-cv-03046-TLW (D.S.C. Dec. 10, 2012; Jan. 16, 2013). 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

* The fact that Wilkes cannot proceed under § 2255 unless he obtains authorization from this court to file a successive motion does not alter this conclusion. United States v. Valdez-Pacheco, 237 F.3d 1077, 1080 (9th Cir. 2001) ("We agree with our sister circuits . . . that a federal prisoner may not challenge a conviction or sentence by way of a petition for a writ of audita querela when that challenge is cognizable under § 2255.").