

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-6964

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

STANLEY MACK,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Matthew J. Perry, Jr., District Judge. (CR-90-18-3)

Submitted: November 30, 1995

Decided: June 11, 1996

Before WILKINSON, Chief Judge, WILKINS, Circuit Judge, and PHILLIPS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Stanley Mack, Appellant Pro Se. Jane Barrett Taylor, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Stanley Melvin Mack appeals from a district court order denying his 28 U.S.C. § 2255 (1988) motion. We affirm.

Mack filed this motion alleging that, during sentencing, the district court relied on materially false information regarding a prior conviction of possession of burglary tools. First, Mack failed to show that he preserved this claim by timely objection. See United States v. Bowman, 926 F.2d 380, 382 (4th Cir. 1991). Second, Mack failed to shoulder his burden of revealing falsity in the challenged information. United States v. Rachels, 820 F.2d 325, 327-28 (9th Cir. 1987). Mack's evidence in support of his claim consisted of evidence that related charges were nolle prossed and his statement that he was not convicted of any charges stemming from the underlying acts. We find this insufficient in the face of the record, which reveals the burglary-tool conviction. Therefore, we affirm the district court order.

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