

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-6344

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOHNNY ALFRED CHOYCE,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. William L. Osteen, Sr., District Judge. (CR-92-51-D, CA-95-62-1)

Submitted: January 14, 1997

Decided: January 28, 1997

Before WIDENER, LUTTIG, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Johnny Alfred Choyce, Appellant Pro Se. David Bernard Smith, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant appeals from the district court's order denying his motion under 28 U.S.C. § 2255 (1994), amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. The record shows that Appellant failed to file an objection to the magistrate judge's report and recommendation, and that the Appellant was apparently not given a warning about the consequences of failure to object. In light of Appellant's failure to object, the district court did not conduct a de novo review; however, this error is harmless. Accordingly, we deny Appellant's motion for counsel and affirm on the reasoning of the district court. United States v. Choyce, No. CR-92-51-D (M.D.N.C. Dec. 1, 1995). 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