

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-7687

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CHARLES LEE DOVEL,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Walter E. Black, Jr., Senior District Judge. (CR-88-74-B, CA-96-1739-B)

Submitted: June 19, 1997

Decided: July 1, 1997

Before WILKINS and MICHAEL, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Charles Lee Dovel, Appellant Pro Se. Andrea L. Smith, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Charles Lee Dovel appeals the district court's order denying his motion under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1997), his motion to withdraw his guilty plea, and motion to correct his sentence. For the reasons that follow, we dismiss.

Dovel pled guilty to possession with intent to distribute cocaine under 21 U.S.C. § 841(a)(1) (1994) and to carrying a firearm in relation to a drug trafficking crime under 18 U.S.C. § 924(c) (1994). He alleges that the Supreme Court's decision in Bailey v. United States, ___ U.S. ___, 64 U.S.L.W. 4039 (U.S. Dec. 6, 1995) (Nos. 94-7448, 94-7492), invalidates his § 924(c) conviction, plea and sentence. Bailey provides no relief for Dovel because the decision did not analyze the factual basis needed to support a § 924(c) conviction for "carrying" a firearm. Id. at 4042-43. The record reveals that Dovel sold cocaine to a government agent while sitting in his automobile and that Dovel reached into the back seat of his vehicle and pointed a rifle at the agent. We find these facts sufficient to uphold Dovel's § 924(c) conviction for a carrying a firearm during and in relation to a drug trafficking offense. See United States v. Mitchell, 104 F.3d 649, 653 (4th Cir. 1997). Thus, we deny a certificate of appealability and dismiss.

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