

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 96-7770**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RANDALL WAYNE GILBERT,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Winston-Salem. Frank W. Bullock, Jr., Chief District Judge. (CR-91-53-WS, CA-96-385-6)

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Submitted: February 17, 1998

Decided: March 12, 1998

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Before WIDENER and HAMILTON, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Randall Wayne Gilbert, Appellant Pro Se. Benjamin H. White, Jr., Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1997). We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Gilbert, Nos. CR-91-53-WS; CA-96-385-6 (M.D.N.C. Sept. 16, 1996). We deny leave to proceed in forma pauperis. 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