

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 96-7851**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

PETE SMITH, a/k/a Jose,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Sr., District Judge. (CR-93-117, CA-95-769-2)

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Submitted: January 22, 1998

Decided: February 3, 1998

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Before WIDENER, MICHAEL, and MOTZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Pete Smith, Appellant Pro Se. Scott Patrick Mebane, 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Unpublished opinions are not binding precedent in this circuit.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. Smith, Nos. CR-93-117; CA-95-769-2 (M.D.N.C. Nov. 18, 1996). 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