

Filed: November 1, 1999

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

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No. 97-6880  
(CR-94-49-R, CA-97-310-3)

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United States of America,

Plaintiff - Appellee,

versus

Edward L. Townes,

Defendant - Appellant.

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O R D E R

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The court amends its opinion filed September 2, 1998, as follows:

On the cover sheet, section 3, line 4 -- the district court's civil number is corrected to read "CA-97-310-3."

For the Court - By Direction

/s/ Patricia S. Connor  
Clerk

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS**

**FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 97-6880

EDWARD L. TOWNES,

Defendant-Appellant.

Appeal from the United States District Court  
for the Eastern District of Virginia, at Richmond.  
James R. Spencer, District Judge.  
(CR-94-49-R, CA-97-310-3)

Submitted: August 13, 1998

Decided: September 2, 1998

Before WIDENER and WILKINS, Circuit Judges, and  
HALL, Senior Circuit Judge.

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Vacated and remanded by unpublished per curiam opinion.

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**COUNSEL**

Edward L. Townes, Appellant Pro Se. Nicholas Stephan Altimari,  
OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Vir-  
ginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

## OPINION

### PER CURIAM:

Appellant seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998). Appellant's conviction became final on October 24, 1995. On April 22, 1997, Appellant filed a § 2255 motion. The district court denied relief on the grounds that Appellant filed his motion outside the one-year limitation period imposed by § 2255. Pursuant to our recent decision in Brown v. Angelone, \_\_\_ F.3d \_\_\_, Nos. 96-7173, 96-7208, 1998 WL 389030 (4th Cir. July 14, 1998), however, Appellant had until April 23, 1997, in which to file a timely motion. Accordingly, because Appellant filed his § 2255 motion by April 23, 1997, we grant a certificate of appealability, vacate the district court's order, and remand this case for consideration on the merits. 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.

### VACATED AND REMANDED