

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6982

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FREDERICK ERNEST AVERY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, District Judge. (CR-92-20-F, CA-97-269-5-F)

Submitted: January 6, 1998

Decided: January 22, 1998

Before WILKINS, LUTTIG, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Frederick Ernest Avery, Appellant Pro Se. John Samuel Bowler, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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 and find no reversible error. We find Appellant's claims of ineffective assistance of trial and appellate counsel to be without merit because Appellant failed to establish prejudice. See Strickland v. Washington, 466 U.S. 668, 694 (1984). Accordingly, we deny Appellant's motion for a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Avery, Nos. CR-92-20-F; CA-97-269-5-F (E.D.N.C. June 3, 1997). 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