

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 97-7068

FRANKLYN EARL BANNERMAN,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Virginia, at Norfolk.
J. Calvitt Clarke, Jr., Senior District Judge.
(CR-90-105-N, CA-97-287-2)

Submitted: August 18, 1998

Decided: September 21, 1998

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

Vacated and remanded by unpublished per curiam opinion.

COUNSEL

Jeffrey Scott Shapiro, VERGARA & ASSOCIATES, Hopewell, Vir-
ginia; Cheryl Johns Sturm, Westtown, Pennsylvania, for Appellant.
Laura Marie Everhart, Assistant United States Attorney, Norfolk, Vir-
ginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Franklyn Bannerman appeals from a district court order that concluded his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998) was barred by the one-year limitations period provided by the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-32, 110 Stat. 1214. Bannerman was convicted in 1991, and he filed his habeas motion on March 14, 1997. Bannerman had until April 23, 1997, to file his § 2255 motion. See Brown v. Angelone, ___ F.3d ___, 1998 WL 389030 (4th Cir. July 14, 1998) (Nos. 96-7173, 96-7208). Therefore, his motion was not time-barred. Accordingly, we grant a certificate of appealability on this issue, vacate the district court's order, and remand for further proceedings. 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