

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-7328

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CHARLES W. BAXTER,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William M. Nickerson, District Judge. (CR-93-122-WN, CA-97-262-WMN)

Submitted: March 3, 1998

Decided: June 2, 1998

Before MURNAGHAN, ERVIN, and WILKINS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Charles W. Baxter, Appellant Pro Se. Lynne Ann Battaglia, United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant Charles W. Baxter 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. Accordingly, we deny a certificate of appealability and dismiss the appeal substantially on the reasoning of the district court. See United States v. Baxter, Nos. CR-93-122-WN; CA-97-262-WMN (D. Md. Aug. 20, 1997). We find Baxter's claim of ineffective assistance of counsel regarding the allegedly duplicitous indictment meritless because he failed to establish that he was prejudiced by counsel's performance. See Strickland v. Washington, 466 U.S. 668, 687-88, 694 (1984). 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