

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 98-6134**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ALBERT BETEMIT,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, District Judge. (CR-95-64)

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Submitted: April 16, 1998

Decided: May 4, 1998

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Before WILKINS and HAMILTON, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Albert Betemit, Appellant Pro Se. N. George Metcalf, Assistant United States Attorney, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant appeals the district court's order denying his Fed. R. Civ. P. 60(b)(3) motion. We have reviewed the record and the district court's opinion and find no reversible error. In the Rule 60(b) motion Appellant sought to vacate his criminal conviction. Because the district court lacked jurisdiction to entertain the Rule 60(b) motion in the criminal proceeding, the district court's denial of that motion was not an abuse of discretion. Accordingly, we affirm on the reasoning of the district court. United States v. Betemit, No. CR-95-64 (E.D. Va. Dec. 19, 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.

AFFIRMED