

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 98-6216**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

SHAWN LAPRELLE BOOKER,

Defendant - Appellant.

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Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. Frederick P. Stamp, Jr., Chief District Judge. (CR-93-48, CA-97-7-5)

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Submitted: August 25, 1998

Decided: October 7, 1998

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

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Dismissed by unpublished per curiam opinion.

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Shawn Laprelle Booker, Appellant Pro Se. Thomas Oliver Mucklow, Assistant United States Attorney, Martinsburg, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Shawn Laprelle Booker seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998). We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. The evidence was sufficient to show that Booker "carried" a firearm under 18 U.S.C.A. § 924(c)(1) (West 1994 & Supp. 1998), and thus to establish a factual basis for Booker's guilty plea to using and carrying a firearm in relation to a drug offense. See Muscarello v. United States, \_\_\_ U.S. \_\_\_, 66 U.S.L.W. 4459 (U.S. June 8, 1998) (Nos. 96-1654, 96-8837); United States v. Mitchell, 104 F.3d 649, 652 (4th Cir. 1997). Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. See United States v. Booker, Nos. CR-93-48; CA-97-7-5 (N.D.W. Va. Jan. 15, 1998). 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