UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-4042

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL THOMAS POTTS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., Chief District Judge. (CR-98-50)

Submitted: January 31, 2000 Decided: February 15, 2000

Before WIDENER, MURNAGHAN, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

William Arthur Webb, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. Walter C. Holton, Jr., United States Attorney, Lisa B. Boggs, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Michael Thomas Potts appeals his conviction for possession with intent to distribute crack cocaine in violation of 21 U.S.C. § 841(a)(1) (1994). On appeal, Potts contends that his due process rights were offended because he did not receive "actual" notice of the Government's intent to seek enhanced penalties under 21 U.S.C. § 841(b)(1)(B) (1994). See 21 U.S.C. § 851(a)(1) (1994). Our review of the record and the proceedings before the district court reveals no reversible error with respect to Potts' notice of and opportunity to be heard regarding the possibility of an enhanced sentence as a result of his recidivism. See Oyler v. Boles, 368 U.S. 448, 452 (1962); United States v. Belanger, 970 F.2d 416, 418 (7th Cir. 1992). In addition, we can discern no abuse of discretion on the part of the district court with respect to the admission of Fed. R. Evid. 404(b) evidence tending to prove that Potts possessed crack cocaine with the requisite intent to distribute. See United States v. Powers, 59 F.3d 1460, 1464-65 (4th Cir. 1995).

Finding no merit to either of Potts' contentions on appeal, we affirm the conviction and sentence. 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