

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-4569

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOHN DAVID TUTTERROW,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Matthew J. Perry, Jr., Senior District Judge. (CR-98-460)

Submitted: January 31, 2000

Decided: February 9, 2000

Before LUTTIG, WILLIAMS, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Rebecca Guental Fulmer, Desa Ann Rice Ballard, DESA BALLARD, P.A., West Columbia, South Carolina, for Appellant. J. Rene Josey, United States Attorney, Eric William Ruschky, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

John David Tutterrow appeals from the district court's judgment entered pursuant to a plea agreement in which Tutterrow pled nolo contendere to wire fraud in violation of 18 U.S.C. § 1343 (1994). Tutterrow later moved to withdraw his guilty plea. The district court denied the motion. Tutterrow was sentenced to eighteen months of imprisonment. The only issue in this appeal is the propriety of the court's denial of Tutterrow's motion to withdraw his plea of nolo contendere.

We review the denial of Tutterrow's motion for abuse of discretion. See United States v. Craig, 985 F.2d 175, 178 (4th Cir. 1993). A defendant does not have an absolute right to withdraw a plea, see United States v. Ewing, 957 F.2d 115, 119 (4th Cir. 1992), but must present a "fair and just" reason. See Fed. R. Crim. P. 32(e); United States v. Hyde, 520 U.S. 670, 671 (1997). We find that the district court did not abuse its discretion in denying Tutterrow's motion to withdraw his plea. See United States v. Moore, 931 F.2d 245, 248 (4th Cir. 1991). Accordingly, we affirm Tutterrow's 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