

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 99-7191

SALOMON S. LOAYZA,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Virginia, at Newport News.
Raymond A. Jackson, District Judge.
(CR-95-11, CA-98-69-4)

Submitted: December 22, 1999

Decided: January 10, 2000

Before WIDENER, MURNAGHAN, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Salomon S. Loayza, Appellant Pro Se. Alan Mark Salsbury, OFFICE
OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Salomon Loayza appeals the district court's order denying his request for collateral relief from his criminal conviction for mail fraud. We have reviewed the record and the district court's opinion and find no reversible error. However, we disagree with the district court's reasoning that Loayza's complaint should be construed as demanding a writ of coram nobis. Rather, Loayza's complaint is properly before the courts as a motion pursuant to 28 U.S.C.A. § 2255 (West Supp. 1999) because he filed the motion while still incarcerated for the conviction currently challenged, see Carafas v. LaVallee, 391 U.S. 234, 238 (1968), and because the conditions of supervised release to which Loayza is currently subject are sufficient to satisfy the "custody" requirement. See Jones v. Cunningham, 371 U.S. 236, 243 (1963). Nevertheless, for the reasons stated by the district court, we agree that Loayza is not entitled to collateral relief.

Accordingly, we deny his motion to proceed in forma pauperis, deny a certificate of appealability, and dismiss the appeal based substantially on the reasoning of the district court. See United States v. Loayza, Nos. CR-95-11; CA-98-69-4 (E.D. Va. Apr. 27, 1999).* 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

*To the extent that Loayza raises new arguments on appeal, we decline to address them. See Karpel v. Inova Health Sys. Servs., 134 F.3d 1222, 1227 (4th Cir. 1998).