

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-7603

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ONTARIO LAMAR GAINEY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at New Bern. Malcolm J. Howard, District Judge. (CR-94-68, CA-99-89-4-H)

Submitted: February 10, 2000

Decided: February 17, 2000

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

Dismissed by unpublished per curiam opinion.

Ontario Lamar Gainey, Appellant Pro Se. Robert Edward Skiver, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Ontario Lamar Gainey seeks to appeal the district court's order denying as untimely his motion filed under 28 U.S.C.A. § 2255 (West Supp. 1999). We have reviewed the record and the district court's opinion and find no reversible error. The basis for the claim Gainey seeks to raise was known to him at the time of sentencing. Accordingly, we deny a certificate of appealability and dismiss the appeal because the § 2255 motion was not timely filed. 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