

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 00-6088

RONALD DION BOYD,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Virginia, at Alexandria.
Leonie M. Brinkema, District Judge.
(CR-97-417-A)

Submitted: May 31, 2000

Decided: June 27, 2000

Before WILKINS, WILLIAMS, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Ronald Dion Boyd, Appellant Pro Se. Amanda L. Eller, OFFICE OF
THE UNITED STATES ATTORNEY, Alexandria, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Ronald Boyd appeals the district court's order denying his motion to correct an illegal sentence under Fed. R. Crim. P. 36. We affirm substantially on the reasoning of the district court. See United States v. Boyd, No. CR-97-417-A (E.D. Va. Dec. 15, 1999). To the extent that Boyd challenged his sentence, his motion should have been construed under 28 U.S.C.A. § 2255 (West Supp. 2000). Even if Boyd's motion were construed as a § 2255 motion, however, it would be untimely filed. See 28 U.S.C.A. § 2255(1). To the extent that Boyd challenged his sentence as executed, his motion should have been construed under 28 U.S.C. § 2241 (1994). Even if Boyd's filing was construed as a § 2241 motion, however, we find he is not entitled to relief. Boyd's claim that he should receive credit towards his federal sentence for time served in a federal facility is not properly before us because Boyd has not yet begun to serve that sentence. As for the remainder of Boyd's claims that should be asserted under § 2241, we affirm on the reasoning of the district court.

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. We deny Boyd's "Motion for Expedited Appeal" as moot.

AFFIRMED