

UNPUBLISHED

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

v.

LEWIS GENE BENNETT, JR.,  
*Defendant-Appellant.*

No. 01-4612

Appeal from the United States District Court  
for the Middle District of North Carolina, at Durham.  
James A. Beaty, Jr., District Judge.  
(CR-01-61)

Submitted: December 4, 2001

Decided: December 26, 2001

Before LUTTIG and WILLIAMS, Circuit Judges, and  
HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

Louis C. Allen, III, Federal Public Defender, Eric D. Placke, Assistant  
Federal Public Defender, Greensboro, North Carolina, for Appellant.  
Benjamin H. White, Jr., United States Attorney, Michael F. Joseph,  
Assistant United States Attorney, Greensboro, North Carolina, for  
Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

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### OPINION

PER CURIAM:

Lewis Gene Bennett, Jr. appeals his conviction and sentence following his guilty plea to one count of passing and uttering counterfeit currency and one count of possession of counterfeit currency in violation of 18 U.S.C.A. § 472 (West 2000). He was sentenced to one year and one day in prison and three years of supervised release on each count, to run concurrently, and \$440 in restitution.

Bennett argues the district court erred when it applied *U.S. Sentencing Guidelines Manual* § 2B5.1(b)(2) (2000) to enhance his sentence. Section 2B5.1(b)(2) provides for an offense level enhancement for a defendant who manufactured or produced counterfeit currency or possessed devices or materials used to counterfeit currency. This guideline, however, "does not apply to persons who merely photocopy notes or otherwise produce items that are so obviously counterfeit that they are unlikely to be accepted even if subjected to only minimal scrutiny." USSG § 2B5.1(b)(2), comment. (n.4); see *United States v. Miller*, 77 F.3d 71, 76 (4th Cir. 1996).

We review the district court's legal determinations de novo and findings of fact for clear error. *United States v. Williams*, 253 F.3d 789, 791-92 (4th Cir. 2001). We have reviewed the parties' briefs and joint appendix and find no reversible error. Accordingly, we affirm Bennett'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*