

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7207

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOSEPH D. LASHLEY,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Norman K. Moon, District Judge. (CR-97-50, CA-99-658-7)

Submitted: February 14, 2002

Decided: February 22, 2002

Before WIDENER, LUTTIG, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joseph D. Lashley, Appellant Pro Se. Joseph William Hooge Mott, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Joseph D. Lashley seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2001). We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error.* Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Lashley, Nos. CR-97-50; CA-99-658-7 (W.D. Va. Apr. 3, 2001). We further deny Lashley's pending motion for transcripts at government expense. 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

* We find to be without merit Lashley's claim of district court abuse of discretion in its failure to consider Lashley's late-filed claim under Apprendi v. New Jersey, 530 U.S. 466 (2000), because among other reasons, Apprendi does not apply retroactively to cases on collateral review. United States v. Sanders, 247 F.3d 139, 146 (4th Cir. 2001).