

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-6084

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TYRONE LOVELL STATON, a/k/a T Bone, a/k/a Bone,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. J. Calvitt Clarke, Jr., Senior District Judge. (CR-90-108)

Submitted: May 7, 1996

Decided: July 23, 1996

Before HALL, NIEMEYER, and HAMILTON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Tyrone Lovell Staton, Appellant Pro Se. Charles Dee Griffith, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant Tyrone Lovell Staton appeals the district court's order denying his 28 U.S.C. § 2255 (1988) motion to vacate his sentence. We have reviewed the record and the district court's order and find no reversible error. Accordingly, we affirm substantially on the reasoning of the district court. United States v. Staton, No. CR-90-108 (E.D. Va. Dec. 19, 1995). We find that the ambiguity existing in Staton's resentencing agreement with the Government constituted only harmless error and that the court properly applied a base offense level of 30. We also find harmless the resentencing court's mistaken reference to an incorrect count of the grand jury indictment. 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