

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 96-6889

RICHARD LEANDER SMITH, a/k/a Peter,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Virginia, at Richmond.
Richard L. Williams, Senior District Judge.
(CR-90-71, CA-95-671)

Submitted: February 13, 1997

Decided: March 3, 1997

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

Dismissed by unpublished per curiam opinion.

COUNSEL

Mark John Rochon, Jr., ROCHON & ROBERTS, Washington, D.C.,
for Appellant. John Granville Douglass, OFFICE OF THE UNITED
STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Richard L. Smith appeals from the district court's denial of his motion brought under 28 U.S.C. § 2255 (1994), as amended by Anti-terrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1217. We dismiss.

Smith contends that his attorney was ineffective for failing to object, at trial, to the admission of a self-incriminating statement which Smith alleges was involuntary despite the giving of Miranda warnings. Our review reveals that Smith's attorney raised this issue and corresponding arguments in a pre-trial motion to suppress. This motion was denied by the district court. At trial, Smith's attorney unsuccessfully renewed his objection prior to the admission of the statement.

In reviewing for ineffective assistance of counsel the court "must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." Strickland v. Washington, 466 U.S. 668, 689 (1984). The petitioner bears the burden of overcoming the presumption that the challenged actions might be considered sound trial strategy. Goodson v. United States, 564 F.2d 1071, 1072 (4th Cir. 1977). Given that Smith's attorney argued the issue prior to trial and renewed his objection at trial, we find that Smith has not met his burden of challenging the soundness of what appears to be reasonable trial strategy. Accordingly, we deny a certificate of appealability and dismiss.

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