

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-7268

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOEL AMOS MITCHELL,

Defendant - Appellant.

On Petition for Rehearing.

Submitted: September 9, 1997 Decided: September 22, 1997

Before WIDENER, MURNAGHAN, and MICHAEL, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Anthony Frank Gonzalez, Tampa, Florida, for Appellant. Julie C. Dudley, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant appeals the district court's order denying his motion filed under 28 U.S.C. § 2255 (1994) (current version at 28 U.S.C.A. § 2255 (West 1994 & Supp. 1997)). We previously denied a certificate of appealability and dismissed on the reasoning of the district court. Appellant filed a timely petition for rehearing in which he asserts that the Supreme Court's recent decision in Lindh v. Murphy, 521 U.S. ____, 65 U.S.L.W. 4557 (U.S. June 23, 1997) (No. 96-6298), alters the appropriate disposition of the appeal. We grant Appellant's petition for rehearing on that basis. As we stated in our prior opinion, we have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we affirm on the reasoning of the district court. Mitchell v. United States, Nos. CR-90-63, CA-95-1208-R (W.D. Va. July 19, 1996). We deny Appellant's remaining ground for relief in the petition for rehearing. 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