

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-7269

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LUTHER RUTH,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Frederic N. Smalkin, District Judge. (CR-90-91-S, CA-96-2300-S)

Submitted: December 19, 1996

Decided: January 6, 1997

Before ERVIN and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Luther Ruth, Appellant Pro Se. Barbara Suzanne Skalla, Assistant United States Attorney, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant seeks to appeal the district court's order denying his motion filed under 28 U.S.C. § 2255 (1994), amended by Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214. We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal.* United States v. Ruth, Nos. CR-90-91-S; CA-96-2300-S (D. Md. July 31, 1996). 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

* To the extent that the district court held that Appellant waived the first claim by failing to raise it on direct appeal, Stone v. Powell, 428 U.S. 465, 477 n.10 (1976), and that the second claim is noncognizable in a § 2255 action because it was rejected on direct appeal, Davis v. United States, 417 U.S. 333, 342 (1974), we affirm on the reasoning of the district court.