

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-7204

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WILLIAM V. SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (CR-91-88, CA-97-42-4-BO)

Submitted: November 6, 1997

Decided: November 25, 1997

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

Dismissed by unpublished per curiam opinion.

William V. Smith, Appellant Pro Se. Fenita Talore Morris, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, 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Unpublished opinions are not binding precedent in this circuit.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.A. § 2255 (West 1994 & Supp. 1997). 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 substantially on the reasoning of the district court. United States v. Smith, Nos. CR-91-88; CA-97-42-4-BO (E.D.N.C. July 16, 1997). To the extent Appellant claims he was subjected to double jeopardy because drug quantities attributable to the dismissed charges were used to calculate his relevant conduct, review of this claim was waived by his valid plea agreement and, in any event, it is meritless. See United States v. Choate, 12 F.3d 1318, 1320 (4th Cir. 1993); see generally United States v. Wiggins, 905 F.2d 51, 52-53 (4th Cir. 1990). 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