

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 97-7540**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WILLIE SWANN,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. J. Frederick Motz, Chief District Judge. (CR-90-166-JFM, CA-97-1389-JFM)

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Submitted: February 26, 1998

Decided: March 19, 1998

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Before WILKINS, NIEMEYER, and HAMILTON, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Willie Swann, Appellant Pro Se. Robert Reeves Harding, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Willie Swann 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. Swann alleges that he was sentenced in violation of his due process rights but fails to demonstrate that the sentencing court relied on "misinformation of a constitutional magnitude." See Roberts v. United States, 445 U.S. 552, 556-57 (1980). Therefore, Swann's failure to raise his sentencing claims on appeal forecloses review under § 2255. See Stone v. Powell, 428 U.S. 465, 477 n.10 (1976). Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Swann, Nos. CR-90-166-JFM, CA-97-1389-JFM (D. Md. Sept. 30, 1997). 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