

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 97-7631**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

PHILIP MURPH, a/k/a Phillip Murph, a/k/a  
Philip Murphy, a/k/a Phil,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern  
District of North Carolina, at Wilmington. W. Earl Britt, Senior  
District Judge. (CR-94-36-BR, CA-97-80-7-BR)

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Submitted: July 28, 1998

Decided: August 24, 1998

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Before NIEMEYER and MICHAEL, Circuit Judges, and HALL, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Marcia Gail Shein, LAW OFFICES OF MARCIA G. SHEIN, P.C., Atlanta,  
Georgia, for Appellant. Robert Edward Skiver, Assistant United  
States Attorney, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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 relief on his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998). Appellant's conviction became final on September 11, 1995. On April 24, 1997, Appellant filed a § 2255 motion. The district court denied relief because Appellant filed his motion outside the one-year limitation period imposed by § 2255. Pursuant to our recent decision in Brown v. Angelone, \_\_\_ F.3d \_\_\_, Nos. 96-7173, 96-7208, 1998 WL \_\_\_\_\_ (4th Cir. July 14, 1998), Appellant had until April 23, 1997, in which to file a timely motion. Accordingly, because Appellant filed his § 2255 motion after April 23, 1997, we deny a certificate of appealability and dismiss the appeal. United States v. Murph, Nos. CR-94-36-BR; CA-97-80-7-BR (E.D.N.C. Oct. 3, 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