

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-6159

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JEROME THOMAS,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Charles H. Haden II, Chief District Judge. (CR-93-196, CA-97-434)

Submitted: June 23, 1998

Decided: July 30, 1998

Before WIDENER, MURNAGHAN, and ERVIN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Gary Allen Collias, MCINTYRE & COLLIAS, Charleston, West Virginia; Samuel H. Shamansky, Columbus, Ohio, for Appellant. John Kirk Brandfass, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jerome Thomas seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998). We have reviewed the record and the district court's opinion accepting the recommendation of the magistrate judge and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Thomas, CR-93-196, CA-97-434 (S.D.W. Va. Jan. 6, 1998). We also note that Thomas was not entitled to an evidentiary hearing. See United States v. Yearwood, 863 F.2d 6, 7 (4th Cir. 1988). 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