

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-6578

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

HENRY HUGH ROBINSON, JR., a/k/a Packy,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. James C. Turk, District Judge.
(CR-93-5, CA-97-265-R)

Submitted: September 30, 1998

Decided: October 19, 1998

Before ERVIN, LUTTIG, and WILLIAMS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Henry Hugh Robinson, Jr., Appellant Pro Se. Ray B. Fitzgerald, Jr.,
OFFICE OF THE UNITED STATES ATTORNEY, Charlottesville, Virginia,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Henry Hugh Robinson, Jr., seeks to appeal the district court's order granting in part and denying in part his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998). The district court found that, following Robinson's guilty plea to conspiracy to possess with intent to distribute crack cocaine and a related firearms offense, he was not apprised of his right to appeal his sentence, as required by Fed. R. Crim. P. 32(c)(5). Accordingly, the court vacated Robinson's prior judgment and commitment order and entered it anew, allowing Robinson the opportunity to appeal his criminal conviction and sentence. The court found the remaining claims to be without merit and granted the Government's summary judgment motion as to those claims.

Since Robinson has noted a timely appeal from his criminal conviction, we are now without jurisdiction to review the district court's disposition of his § 2255 motion. See Bowen v. Johnston, 306 U.S. 19, 26-27 (1939). Accordingly, we deny a certificate of appealability and dismiss the appeal. Further, we deny Robinson's motion seeking appointment of counsel. 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