

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-6752

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ROY SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Richard L. Williams, Senior District Judge. (CR-89-196-A, CA-90-1157)

Submitted: August 13, 1998

Decided: September 4, 1998

Before WIDENER and WILKINS, Circuit Judges, and HALL, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Roy Smith, Appellant Pro Se. William Neil Hammerstrom, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, 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Unpublished opinions are not binding precedent in this circuit.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 to reinstate his 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998) motion, which was dismissed without prejudice in 1991. We have reviewed the record and the district court's opinion and find no abuse of discretion. See In re Burnley, 988 F.2d 1, 2-3 (4th Cir. 1992). Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. United States v. Smith, No. CR-89-196-A (E.D. Va. Apr. 10, 1998). 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