

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-7664

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOHN ANTHONY CAPERS,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. David C. Norton, District Judge. (CR-92-446, CA-98-2111-2-18)

Submitted: March 25, 1999

Decided: March 31, 1999

Before WILKINS and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

John Anthony Capers, Appellant Pro Se. Robert Hayden Bickerton, Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

John Anthony Capers seeks to appeal the district court's order denying his motion filed under U.S. Sentencing Guidelines Manual § 5K2.0 (1998). We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we dismiss this appeal. We note that, because Capers' motion did not challenge the validity of his original sentence, the motion should not have been docketed as a motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998). We therefore deny Capers' motion for a certificate of appealability as unnecessary. 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