

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 99-6494

VANNIS L. LIVERMAN, a/k/a Vann,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Virginia, at Norfolk.
Rebecca B. Smith, District Judge.
(CR-95-151-6, CA-98-1171-2)

Submitted: June 8, 1999

Decided: July 9, 1999

Before MURNAGHAN and WILLIAMS, Circuit Judges, and
BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

COUNSEL

Vannis L. Liverman, Appellant Pro Se. Fernando Groene, OFFICE
OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Vannis L. Liverman 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 and find no reversible error. We note that Liverman fully and fairly litigated on direct appeal whether his plea was entered knowingly and voluntarily and, thus, this issue is not subject to collateral review. See Boeckenhaupt v. United States, 537 F.2d 1182, 1183 (4th Cir. 1976). We further note that review of Appellant's nonconstitutional claims relating to the application of the Sentencing Guidelines were waived because they were not raised on direct appeal and these alleged errors would not constitute a fundamental defect inherently resulting in a miscarriage of justice. See United States v. Addonizio, 442 U.S. 178, 185 (1979).

We have also construed Liverman's sentencing claims as ineffective assistance of counsel claims. After reviewing Liverman's allegations and the record, we find that Liverman failed to demonstrate deficient representation and prejudice on any of his ineffective assistance of counsel claims such that the "result of the proceeding was fundamentally unfair or unreliable." Lockhart v. Fretwell, 506 U.S. 364, 369 (1993). We reviewed all other issues raised and find no error by the district court. Accordingly, we deny a certificate of appealability and dismiss the appeal. 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