

Filed: March 28, 2007

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 06-7840  
(7:94-cr-40106-005)

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JERMAINE LAVONNE CHASE,

Defendant - Appellant.

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O R D E R

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The court amends its opinion filed March 23, 2007, as follows:

On the cover sheet, district court information section --  
Judge Wilson's name is deleted and is replaced by "Jackson L.  
Kiser, Senior District Judge."

For the Court - By Direction

/s/ Patricia S. Connor  
Clerk

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 06-7840**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JERMAINE LAVONNE CHASE,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Jackson L. Kiser, Senior District Judge. (7:94-cr-40106-005)

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Submitted: February 23, 2007

Decided: March 23, 2007

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Before MICHAEL, MOTZ, and TRAXLER, Circuit Judges.

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Vacated and remanded with instructions by unpublished per curiam opinion.

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Jermaine Lavonne Chase, Appellant Pro Se. Ronald Andrew Bassford, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jermaine Lavonne Chase appeals the district court's order denying relief on his Fed. R. Crim. P. 36 motion to correct clerical error. Specifically, Chase seeks to have the Amended Judgment entered November 3, 2000, corrected to include his convictions for aiding and abetting, in violation of 18 U.S.C. § 2 (2000) relative to Counts 4 and 68.\* As the district court recognized, all four substantive drug charges, i.e. the two possession charges and the two aiding and abetting charges, are incorporated in Chase's Amended Judgment, by virtue of their

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\*Chase's original Judgment Order reflected the § 2 convictions in Counts 4 and 68, but the Amended Judgment omitted direct reference to the aiding and abetting convictions in the "Title & Section" and "Nature of Offense" sections of the Amended Judgment Order. Specifically, the prior Judgment Order, in pertinent part, reads as follows:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Numbers</u>
21:841(a)(1), (b)(1)(C); 18:2	Distribution of cocaine, aid and abet	1/8/93 8/30/94	4 68

In contrast, the November 3, 2000 Amended Judgment Order, in pertinent part, reads as follows:

ADDITIONAL COUNTS OF CONVICTION

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Numbers</u>
21: U.S.C. 841(a)(1)	Possess with intent to distribute cocaine base	1/8/93	4
21 U.S.C. 841(a)(1)	Possess with intent to distribute cocaine powder	8/30/94	68

inclusion in Counts 4 and 68. However, Chase is correct that the Amended Judgment does not directly reference his conviction of § 2 relative to either Count 4 or 68. Therefore, we vacate the district court's denial of Chase's Rule 36 motion, and direct that the district court correct the Amended Judgment pursuant to Rule 36. This correction, of course, will have no effect on Chase's term of imprisonment or term of supervised release, nor will it restart the limitations period for filing a post-conviction challenge under the Antiterrorism and Effective Death Penalty Act of 1996. We deny Chase's motion for 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.

VACATED AND REMANDED WITH INSTRUCTIONS