

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6178

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MAURICE FOSTER,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, District Judge. (7:05-cv-00770-SGW; 95-cr-242-12)

Submitted: July 12, 2006

Decided: July 27, 2006

Before MICHAEL, GREGORY, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Maurice Foster, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Maurice Foster appeals the district court's order denying relief on his petition, filed under 28 U.S.C. § 2241 (2000), asserting error under United States v. Booker, 543 U.S. 220 (2005), and the district court's order denying his Fed. R. Civ. P. 59(e) motion for reconsideration of that order. As the district court correctly concluded, Foster does not meet the standard under In re Jones, 226 F.3d 328, 333-34 (4th Cir. 2000); thus, he was not entitled to proceed under § 2241.* Accordingly, we affirm the denial of relief. We grant Foster leave to proceed in forma pauperis on 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.

AFFIRMED

*The district court also construed the petition as a motion under 28 U.S.C. § 2255 (2000), and dismissed it as successive. Because the district court did not have jurisdiction under § 2255 to consider the validity of Foster's sentence on his convictions arising out of the Northern District of Illinois, we decline to consider this case under § 2255.