

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6405

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

THOMAS AUGUSTIN,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. H. Brent McKnight, District Judge. (3:02-cr-00208)

Submitted: August 30, 2006

Decided: September 13, 2006

Before WILKINSON, NIEMEYER, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Thomas Augustin, Appellant Pro Se. Keith Michael Cave, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

In 2003, Thomas Augustin entered a guilty plea to possession of fifty grams or more of cocaine base (crack) and 500 grams or more of cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a) (2000), and was sentenced to a term of 210 months imprisonment. Augustin appealed his sentence, and we affirmed it. United States v. Augustin, 102 F. App'x 771 (4th Cir. 2004) (04-4061). The Supreme Court later vacated this court's judgment and remanded the case for further proceedings in light of United States v. Booker, 543 U.S. 220 (2005). On remand, we again affirmed the sentence. United States v. Augustin, 157 F. App'x 582 (4th Cir. 2005) (04-4061).

Augustin subsequently filed in the district court a "Notice of Application for a Certificate of Appealability," referencing the date of his 2003 sentencing hearing. The district court construed the application as a notice of appeal from the original judgment. Augustin has now filed an informal brief in this court in which he challenges his conviction and sentence and asserts that his counsel rendered ineffective assistance. Because Augustin has previously appealed from the judgment entered on January 12, 2004, this appeal is redundant.

We therefore 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