

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6165

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHONE EDWARD WILKES,

Defendant - Appellant.

No. 10-6166

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHONE EDWARD WILKES,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. Frank D. Whitney,
District Judge. (3:01-cr-00031-FDW-8)

Submitted: April 29, 2010

Decided: May 4, 2010

Before MOTZ and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

Shone Edward Wilkes, Appellant Pro Se. Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina; Gretchen C. F. Shappert, UNITED STATES DEPARTMENT OF JUSTICE, Washington, DC, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Shone Edward Wilkes seeks to appeal two of the district court's December 22, 2009, text orders: (1) denying his motion under Fed. R. Crim. P. 36 to correct "clerical error in the written judgment" and (2) his "motion asserting his actual innocence . . . contest[ing] his prior convictions which factored into his sentence." The district court denied the first motion noting that "the Court finds no clerical error in the written judgment." We note that Rule 36 motions apply only to clerical errors and are not the proper vehicle for challenging the substance of the information in a presentence report ("PSR"). Rather, any challenges to a PSR should be filed within fourteen days of receiving the document. See Fed. R. Crim. P. 32(f).

The district court denied relief in the second motion noting the "late date" of the motion occurring "years after his plea, sentencing, and appeal." We note that, to the extent Wilkes seeks to challenge his conviction and sentence, he must first obtain authorization from this court to file a successive 28 U.S.C.A. § 2255 (West Supp. 2009) motion. See 28 U.S.C.A. § 2255(h). Accordingly, we affirm the court's text orders. 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