

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-6113

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

AKIBA MATTHEWS,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Catherine C. Blake, District Judge. (1:07-cr-00581-CCB-1)

Submitted: May 18, 2012

Decided: May 23, 2012

Before KING, GREGORY, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Akiba Matthews, Appellant Pro Se. Michael Clayton Hanlon, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Akiba Matthews appeals the district court's margin order denying his motion to dismiss the indictment. Rule 12(b)(3)(B) of the Federal Rules of Criminal Procedure provides that a motion alleging a defect in the indictment must be raised before trial and that a claim that the indictment fails to state an offense may be raised while the case is pending. Because Matthews has been convicted and his conviction has been affirmed on appeal, his case is no longer pending. Accordingly, Rule 12(b) is not available to him. We therefore affirm the judgment of the district court. 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