

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-6268

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OBED HOYTE,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. James P. Jones, District Judge. (3:93-cr-00010-JPJ-RSB-1; 3:17-cv-81228-JPJ-RSB)

Submitted: May 23, 2017

Decided: May 26, 2017

Before KING, AGEE, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Obed Hoyte, Appellant Pro Se. Jennie L. M. Waering, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Obed Hoyte appeals the district court's order dismissing his Fed. R. Civ. P. 60(b) motion as an unauthorized, successive 28 U.S.C. § 2255 (2012) motion. Our review of the record confirms that Hoyte sought successive § 2255 relief without authorization from this court, and we therefore hold that the district court properly dismissed the motion for lack of jurisdiction. 28 U.S.C. §§ 2244(b)(3)(A), 2255(h) (2012). Thus, we affirm the district court's order. *See United States v. McRae*, 793 F.3d 392, 400 (4th Cir. 2015).

We construe Hoyte's notice of appeal and informal brief as an application to file a second or successive § 2255 motion. *United States v. Winestock*, 340 F.3d 200, 208 (4th Cir. 2003). In order to obtain authorization to file a successive § 2255 motion, a prisoner must assert claims based on newly discovered evidence sufficient to establish that no reasonable factfinder would have found the movant guilty of the offense, or a new rule of constitutional law that the Supreme Court has made retroactive to cases on collateral review. 28 U.S.C. § 2255(h)(1)-(2). Hoyte's claims do not satisfy either of these criteria. Therefore, we deny authorization to file a successive § 2255 motion. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED