

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6484

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OSHAY TERRELL JONES,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Michael F. Urbanski, Chief District Judge. (7:13-cr-00038-MFU-RSB-1; 7:16-cv-80894-MFU-RSB)

Submitted: February 28, 2018

Decided: March 12, 2018

Before FLOYD and THACKER, Circuit Judges, and SHEDD, Senior Circuit Judge.

Dismissed in part, affirmed in part by unpublished per curiam opinion.

Oshay Terrell Jones, Appellant Pro Se. Ronald Andrew Bassford, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Oshay Terrell Jones appeals the district court's order dismissing his 28 U.S.C. § 2255 (2012) motion. We granted a partial certificate of appealability and ordered the Government to respond on the issue of whether the district court abused its discretion in denying, without an evidentiary hearing, Jones' claim that he rejected a favorable plea offer based on his trial counsel's allegedly erroneous advice. We now affirm in part and dismiss in part.

In its response brief, the Government contends that Jones abandoned the claim on which we granted a certificate of appealability. We agree. Jones requested that the district court strike the claim, and Jones thereafter failed to present any further argument on the claim in the district court. Jones' assertion that he was, in fact, requesting that the district court strike the Government's arguments on the claim is not credible. Accordingly, we affirm the portion of the district court's order dismissing this claim. *See United States ex rel. Drakeford v. Tuomey*, 792 F.3d 364, 375 (4th Cir. 2015).

We have independently reviewed the record as to Jones' remaining claims and conclude that Jones is not entitled to a certificate of appealability on those claims. *See* 28 U.S.C. § 2253(c)(2) (2012); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Accordingly, we deny a certificate of appealability as to those claims and dismiss that portion of the appeal. 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.

*DISMISSED IN PART;
AFFIRMED IN PART*