

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-7436

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BROOKS JAMES TERRELL,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Spartanburg. Henry M. Herlong, Jr., Senior District Judge. (7:99-cr-00610-HMH-1; 7:18-cv-02667-HMH)

Submitted: April 16, 2019

Decided: April 29, 2019

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

Affirmed by unpublished per curiam opinion.

Brooks James Terrell, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Brooks James Terrell appeals the district court's order construing his Fed. R. Civ. P. 60(b) motion as an unauthorized successive 28 U.S.C. § 2255 (2012) motion and dismissing it for lack of jurisdiction. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *See United States v. Terrell*, No. 7:99-cr-00610-HMH-1 (D.S.C. filed Sept. 28, 2018; entered Oct. 1, 2018). We deny the pending motion without prejudice to any right Terrell may have to seek retroactive application of the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372, in the sentencing court under Section 404 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. We deny a certificate of appealability as unnecessary. *See United States v. McRae*, 793 F.3d 392, 400 (4th Cir. 2015). 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