

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-7584

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES LEONARD LANDRY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Roderick Charles Young, District Judge. (2:16-cr-00171-RCY-DEM-1; 2:19-cv-00101-RCY)

Submitted: April 29, 2022

Decided: May 13, 2022

Before NIEMEYER, WYNN, and HARRIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

James Leonard Landry, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Leonard Landry appeals the district court's order granting in part and dismissing in part his 28 U.S.C. § 2255 motion. The district court granted Landry's motion related to Landry's claim that he was denied effective assistance of appellate counsel in pursuing a petition for writ of certiorari. The district court dismissed Landry's remaining claims without prejudice, and it granted a certificate of appealability.

On appeal, Landry challenges the district court's dismissal without prejudice of his remaining § 2255 claims.* We have reviewed the record and find no reversible error. The district court properly "dismissed the remaining claims *without prejudice to [Landry]'s right to file another habeas motion, if necessary, after*" the resolution of his certiorari petition or after the time for him to seek such relief passes without the filing of a certiorari petition. *United States v. Killian*, 22 F. App'x 300, 301 (4th Cir. 2001) (per curiam) (emphasis added). Accordingly, we affirm the district court's order. *United States v. Landry*, Nos. 2:16-cr-00171-RCY-DEM-1; 2:19-cv-00101-RCY (E.D. Va. Oct. 20, 2021). We deny Landry's motions to appoint counsel and for a transcript at Government expense. 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

* We recently granted Landry's motion to recall the mandate, reenter judgment, and appoint counsel related to filing a petition for writ of certiorari in No. 17-4355, *United States v. Landry*.