

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

United States v. McLean

3 F. App'x 21 (4th Cir. 2001) · No. No. 00-6670 · Decided January 31, 2001

SUMMARY

The Fourth Circuit dismissed Cleveland McLean Jr.'s appeal from the denial of a motion construed as a 28 U.S.C. § 2255 motion. The court denied a certificate of appealability and McLean's motions to vacate the district court's order and for attorney's fees, concluding that the district court's reasoning disclosed no reversible error.

CASE DETAILS

COURT	United States Court of Appeals for the Fourth Circuit
WRITING FOR THE COURT	Niemeyer; Williams; Michael
JURISDICTION	Federal
DECIDED	January 31, 2001
DOCKET	No. 00-6670
DISPOSITION	dismissed
PROCEDURAL POSTURE	McLean appealed the district court's order denying a motion construed as a motion under 28 U.S.C. § 2255. The Fourth Circuit denied a certificate of appealability and dismissed the appeal.
STANDARD OF REVIEW	The court reviewed the record and the district court's opinion for reversible error.
PRECEDENTIAL VALUE	Unpublished; not binding precedent in the Fourth Circuit
PARTIES	Cleveland McLean, Jr., a/k/a Junior, a/k/a June v. United States of America

TOPICS

- federal habeas corpus
- post-conviction relief
- appellate procedure
- criminal procedure

PRACTICE AREAS

- Federal habeas corpus
- Criminal procedure
- Appellate procedure
- Post-conviction relief

QUESTIONS PRESENTED

1. Whether the district court's denial of McLean's motion construed as a 28 U.S.C. § 2255 motion contained reversible error.
2. Whether McLean was entitled to a certificate of appealability.
3. Whether McLean's motions to vacate the district court's order and for attorney's fees should be granted.

HOLDINGS

1. The court denied McLean a certificate of appealability and dismissed the appeal.
2. The court denied both motions.

KEY QUOTATIONS

“*Unpublished opinions are not binding precedent in this circuit.*” (3 F. App'x at 21)

FACTUAL BACKGROUND

McLean filed a motion in the district court that the court construed as a motion under 28 U.S.C. § 2255. The district court denied the motion. On appeal, McLean also sought to vacate the district court's order and requested attorney's fees.

PROCEDURAL HISTORY

The United States District Court for the Eastern District of Virginia denied McLean's motion, construing it as a motion under 28 U.S.C. § 2255. McLean appealed. The Fourth Circuit found no reversible error, denied a certificate of appealability, dismissed the appeal, and denied motions to vacate the district court's order and for attorney's fees.

DISPOSITION

dismissed

CASES CITED

- United States v. McLean, No. CR-90-105 (E.D. Va. Mar. 14, 2000)

OPINION

PER CURIAM.

UNPUBLISHED UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT No. 00-6670 UNITED STATES OF AMERICA, Plaintiff - Appellee, versus CLEVELAND MCLEAN, JR., a/k/a Junior, a/k/a June, Defendant - Appellant. Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Robert G. Doumar, Senior District Judge. (CR-80-105) Submitted: January 16, 2001 Decided: January 31, 2001 Before NIEMEYER, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion. Cleveland McLean, Jr., Appellant Pro Se. Laura Marie Everhart, Assistant United States Attorney, Norfolk, Virginia, for Appellee. Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c). PER CURIAM: Cleveland McLean, Jr., seeks to appeal the district court's order denying his motion, which the court construed as a 28 U.S.C.A. § 2255 (West Supp. 2000) motion.

We have reviewed the record and the district court's opinion and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. See *United States v. McLean*, No. CR-90-105 (E.D. Va. Mar. 14, 2000).

We also deny McLean's motions to vacate the district court's order and for attorney's fees. 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. DISMISSED 2