

No. _____

In The
Supreme Court of the United States

GARY LYNN GATLIN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Fourth Circuit

**APPENDIX TO
PETITION FOR WRIT OF CERTIORARI**

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UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-4315

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GARY LYNN GATLIN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern of North Carolina, at
Wilmington. Louise W. Flanagan, District Judge. (7:19-cr-00033-FL-1)

Submitted: May 18, 2023

Decided: August 30, 2023

Before DIAZ, Chief Judge, RUSHING, Circuit Judge, and MOTZ, Senior Circuit Judge.

Affirmed in part and dismissed in part by unpublished per curiam opinion.

ON BRIEF: Michael W. Patrick, LAW OFFICE OF MICHAEL W. PATRICK, Chapel Hill, North Carolina, for Appellant. Kenneth A. Polite, Jr., Assistant Attorney General, Lisa H. Miller, Deputy Assistant Attorney General, Joshua K. Handell, Appellate Section, Criminal Division, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.; Michael F. Easley, Jr., United States Attorney, David A. Bragdon, Appellate Chief, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

APPENDIX A

PER CURIAM:

Defendant Gary Lynn Gatlin appeals his conviction for possessing a firearm as a felon (18 U.S.C. § 922(g)(1)) and for two counts of assaulting a federal officer (18 U.S.C. § 111). He contends that the district court committed instructional error and that it also erred in denying his posttrial motions for a competency hearing under 18 U.S.C. § 4241(a) and for a new trial under Federal Rule of Criminal Procedure 33. We have reviewed the record and find no reversible error.

Gatlin also asserts that his trial counsel was unconstitutionally ineffective. But we typically reserve ineffective-assistance-of-counsel claims for collateral review and will decide them on direct appeal only if “counsel’s ineffectiveness conclusively appears on the face of the record.” *United States v. Glover*, 8 F.4th 239, 246 (4th Cir. 2021).

Here, the four corners of the record don’t conclusively show counsel’s ineffectiveness. We therefore dismiss this portion of Gatlin’s appeal, and otherwise affirm the district court’s judgment. We dispense with oral argument because the facts and legal conclusions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED IN PART
AND DISMISSED IN PART*

FILED: August 30, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-4315
(7:19-cr-00033-FL-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

GARY LYNN GATLIN

Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed in part. The appeal is dismissed in part.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

APPENDIX B