

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i>
v.
BERNARDO SEGUNDO CALLEJA, <i>Defendant-Appellant.</i>

No. 01-7674

Appeal from the United States District Court
for the Western District of Virginia, at Roanoke.
James C. Turk, District Judge.
(CR-86-28-R)

Submitted: December 20, 2001

Decided: January 9, 2002

Before LUTTIG, TRAXLER, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Bernardo Segundo Calleja, Appellant Pro Se. Thomas Jack Bondurant, Jr., Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Bernardo Segundo Calleja seeks to appeal the district court's order denying his motion to unseal grand jury proceedings under Fed. R. Crim. P. 6(e), and his motion to alter or amend the judgment under Fed. R. Civ. P. 59(e). Calleja filed his motion to unseal grand jury proceedings twelve years after we adjudicated his claims on appeal from his criminal convictions. He sought the transcripts for the purpose of obtaining information to support a motion under 28 U.S.C.A. § 2255 (West Supp. 2001). We find that Calleja's action is civil in nature. *See United States v. Miramontez*, 995 F.2d 56, 58 (5th Cir. 1993) (finding that sixty-day appeal period applies where defendant sought disclosure of grand jury transcripts long after direct appeal concluded to prepare post-conviction challenge to conviction). Thus, we have jurisdiction over both orders. *See Fed. R. App. P. 4(a)(1)(B), 4(a)(4)(A)(iv)*.

We have reviewed the record and the district court's order denying the motion to unseal and find no abuse of discretion. *See In re Grand Jury Proceedings*, 800 F.2d 1293, 1299 (4th Cir. 1986) (stating standard of review). We agree with the district court that Calleja failed to articulate a particularized need for the transcripts. *See Douglas Oil Co. v. Petrol Stops Northwest*, 441 U.S. 211, 218 (1979) (providing standard). We also find no abuse of discretion in the denial of Calleja's Rule 59(e) motion. *See Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 402-03 (4th Cir. 1998) (stating standard of review). Accordingly, we affirm the district court's orders. 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.

AFFIRMED