

Rehearing granted and
appeal dismissed by
opinion filed 5/17/02

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7961

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL L. MOORE,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (CR-97-362-A, CA-00-1776-AM)

Submitted: January 31, 2002

Decided: February 11, 2002

Before NIEMEYER, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael L. Moore, Appellant Pro Se. Thomas More Hollenhorst, Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Michael L. Moore seeks to appeal the district court's orders denying his motions filed under 28 U.S.C.A. § 2255 (West Supp. 2001), and Fed. R. Civ. P. 60(b). We dismiss the appeal from the denial of the § 2255 motion for lack of jurisdiction because the appeal was untimely filed. The district court entered its order denying § 2255 relief on June 25, 2001. Moore did not file his notice of appeal within the sixty-day appeal period provided by Fed. R. App. P. 4(a)(1), nor did the district court extend the appeal period under Fed. R. App. P. 4(a)(5) or reopen the appeal period under Fed. R. App. P. 4(a)(6). We therefore deny a certificate of appealability and dismiss this portion of the appeal for lack of jurisdiction.

In his motion, Moore sought reconsideration of the court's denial of his § 2255 motion. We have reviewed the record and the district court's opinion and find no abuse of discretion. Accordingly, we deny a certificate of appealability and dismiss this portion of the appeal on the reasoning of the district court. Unites States v. Moore, Nos. CR-97-362-A; CA-00-1776-AM (E.D. Va. July 23, 2001). 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