

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6131

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RAY WALLACE METTETAL, JR., a/k/a Steven Ray
Maupin,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of Virginia, at Charlottesville. B. Waugh Crigler,
Magistrate Judge. (CR-96-30034)

Submitted: August 20, 2004

Decided: September 3, 2004

Before MICHAEL, MOTZ, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ray Wallace Mettetal, Jr., Appellant Pro Se. Ray B. Fitzgerald,
Jr., OFFICE OF THE UNITED STATES ATTORNEY, Charlottesville,
Virginia, Julie C. Dudley, Assistant United States Attorney,
Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Ray Wallace Mettetal, Jr., appeals a magistrate judge's order denying his motion for return of property. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders. 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The magistrate judge's order is neither a final order nor an appealable interlocutory or collateral order. See Haney v. Addison, 175 F.3d 1217, 1219 (10th Cir. 1999) (holding that absent both designation by the district court and consent of the parties, see 28 U.S.C. § 636(c) (2000), a magistrate judge's recommendation is not a final appealable decision under 28 U.S.C. § 1291); see also Aluminum Co. of Am. v. EPA, 663 F.2d 499, 501-02 (4th Cir. 1981) (holding that, when the district court specifically refers a dispositive matter to the magistrate judge under 28 U.S.C. § 636(b)(3) (2000), the district court is required to give the magistrate judge's order de novo determination). Accordingly, we dismiss the appeal for lack of jurisdiction. 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