

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7339

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH MONROE,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. Norman K. Moon, District Judge. (3:94-cr-00041-nkm-4)

Submitted: August 19, 2008

Decided: September 8, 2008

Before MOTZ and TRAXLER, Circuit Judges, and WILKINS, Senior Circuit Judge.

Vacated and remanded with instructions by unpublished per curiam opinion.

Joseph Monroe, Appellant Pro Se. Julie C. Dudley, Assistant United States Attorney, Roanoke, Virginia; Jean Barrett Hudson, Assistant United States Attorney, Charlottesville, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joseph Monroe appeals the district court's order denying his motion to reconsider the 360-month sentence imposed after a jury convicted him in 1995 of drug-related offenses. Because the motion to reconsider attacked the validity of his sentence rather than any alleged defect in the collateral review process, the motion amounted to a successive motion under 28 U.S.C. § 2255 (2000), that the district court lacked jurisdiction to consider.* See United States v. Winestock, 340 F.3d 200, 207 (4th Cir. 2003); see also Gonzalez v. Crosby, 545 U.S. 524, 530-32 (2005) (explaining differentiation between true motion filed pursuant to Fed. R. Civ. P. 60(b), and unauthorized successive habeas corpus petition). Accordingly, we vacate the court's order and remand with instructions to dismiss Monroe's motion to reconsider for lack of jurisdiction. See Winestock, 340 F.3d at 208-09.

We deny Monroe's motion to appoint counsel and motion to remand for resentencing. 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.

VACATED AND REMANDED WITH INSTRUCTIONS

*Monroe may file in the district court a motion to reduce his sentence under 18 U.S.C.A. § 3582(c) (West 2000 & Supp. 2008).