

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7031

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUSTIN MATTHEW,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Robert J. Conrad, Jr., Chief District Judge. (3:06-cr-00016-RJC-CH-1; 3:08-cv-00190-RJC)

Submitted: July 23, 2009

Decided: July 27, 2009

Before WILKINSON and AGEE, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Justin Matthew, Appellant Pro Se. Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Justin Matthew seeks to appeal the district court's February 11, 2008 order. The order provided Matthew with notice that the district court intended to construe correspondence received from Matthew as his first 28 U.S.C. § 2255 (2006) motion to vacate his 2007 criminal convictions, in accordance with this court's holding in United States v. Emmanuel, 288 F.3d 644, 649 (4th Cir. 2002). The district court's order also directed Matthew to respond to the order within twenty days, indicating whether he desired the district court to consider his correspondence as a § 2255 motion. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2006), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2006); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Matthew seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. 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