

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7068

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICKY VINCENT PENDLETON,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Martinsburg. James E. Seibert, Magistrate Judge. (3:96-cr-00001-FPS-JES-1)

Submitted: December 11, 2008

Decided: December 17, 2008

Before NIEMEYER, DUNCAN, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ricky Vincent Pendleton, Appellant Pro Se. Paul Thomas Camilletti, Assistant United States Attorney, Martinsburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ricky Vincent Pendleton seeks to appeal the magistrate judge's order dismissing as unintelligible Pendleton's motions styled "Petition for Discharge and Withdrawal" and "Notice of Request for Tax I.D. Number." 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 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

* Alternatively, even if we had jurisdiction over Pendleton's appeal, the record clearly indicates it was untimely. See Fed. R. App. P. 4(a)(1)(B).

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