

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-7093**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICHARD DENNIS BERNIER, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the Northern  
District of West Virginia, at Elkins. John Preston Bailey,  
Chief District Judge. (2:08-cr-00022-REM-JSK-1)

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Submitted: March 23, 2011

Decided: April 6, 2011

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Before KING, KEENAN, and WYNN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Richard Dennis Bernier, Jr., Appellant Pro Se. Stephen Donald  
Warner, Assistant United States Attorney, Elkins, West Virginia,  
for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Richard Dennis Bernier, Jr., pled guilty to one count of distributing marijuana, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(D) (2006). He was sentenced in May 2009 to forty-six months' imprisonment. Bernier did not file a direct appeal. In April 2010, Bernier filed a motion, styled as a Fed. R. Civ. P. 60(b)(6) motion, in which he challenged the \$4000 fine the court imposed as part of his sentence. The district court denied the motion, and Bernier appeals.

The Federal Rules of Civil Procedure do not provide a vehicle by which Bernier may challenge his criminal judgment. See United States v. O'Keefe, 169 F.3d 281, 289 (5th Cir. 1999) (stating that a criminal defendant cannot challenge orders entered in his criminal case using Fed. R. Civ. P. 60(b)); United States v. Mosavi, 138 F.3d 1365, 1366 (11th Cir. 1998) (per curiam) (holding that a defendant cannot challenge criminal forfeiture orders under the Federal Rules of Civil Procedure). Nor could Bernier have properly sought reconsideration under the Federal Rules of Criminal Procedure. See United States v. Goodwyn, 596 F.3d 233, 235 (4th Cir.), cert. denied, 130 S. Ct. 3530 (2010) (holding that Fed. R. Crim. P. 35 authorizes reconsideration within fourteen days only to correct arithmetical, technical, or other clear error).

We therefore affirm the district court's order. 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.

AFFIRMED