

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7512

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS WALKER LABUWI, II,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilson. James C. Fox, Senior District Judge. (7:00-cr-00078-F-8)

Submitted: August 24, 2015

Decided: September 4, 2015

Before NIEMEYER and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed in part; dismissed in part by unpublished per curiam opinion.

Thomas Walker LaBuwi, II, Appellant Pro Se. Jennifer P. May-Parker, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Walker LaBuwi, II, appeals the district court's orders denying his petition for a writ of error audita querela as an unauthorized successive motion under 28 U.S.C. § 2255 (2012), and dismissing his Fed. R. Civ. P. 60(b) motion for reconsideration. After review, we affirm the district court's order denying LaBuwi's petition for audita querela for the reasons stated by the district court. United States v. LaBuwi, No. 7:00-cr-00078-F-8 (E.D.N.C. May 7, 2013).

To the extent that audita querela petition is an unauthorized successive § 2255 motion, we deny LaBuwi's motion for a certificate of appealability and dismiss the appeal. See Slack v. McDaniel, 529 U.S. 473, 484-85 (2000). We conclude that LaBuwi's Rule 60(b) motion was not a successive § 2255 motion, see United States v. Winestock, 340 F.3d 200, 207 (4th Cir. 2003) ("[A] motion seeking a remedy for some defect in the collateral review process will generally be deemed a proper motion to reconsider."), but conclude the district court's denial of the motion does not warrant full review after grant of a certificate of appealability. See Reid v. Angelone, 369 F.3d 363, 369 (4th Cir. 2004), abrogated on other grounds by United States v. McRae, ___ F.3d ___, ___, No. 13-6878, 2015 WL 4190665, at *6 n.7 (4th Cir. July 13, 2015).

Accordingly, we affirm in part and dismiss in part. We dispense with oral argument because the facts and legal contentions are adequately presented in the material before this court and argument will not aid the decisional process.

AFFIRMED IN PART;
DISMISSED IN PART