

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-7116

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

THEODORE ANTHONY MAXWELL, a/k/a Spencer Maxwell, a/k/a Tony Johnson, a/k/a Maxwell Spencer, a/k/a Ferdinand Clarkson, a/k/a Hitler, a/k/a Little Hitler,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry C. Morgan, Jr., District Judge. (CR-92-133)

Submitted: February 25, 1999

Decided: March 8, 1999

Before HAMILTON, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Theodore Anthony Maxwell, Appellant Pro Se. Carol M. Marx, Special Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Theodore Anthony Maxwell appeals the district court's order: (1) directing the United States to respond to Maxwell's claim that a change in the Sentencing Guidelines warrants resentencing; and (2) construing Maxwell's remaining claims as brought pursuant to 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998) and dismissing them as time-barred. We dismiss the appeal for lack of jurisdiction because the order is not appealable. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (1994), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (1994); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order here appealed is neither a final order nor an appealable interlocutory or collateral order.

We dismiss the appeal as interlocutory. 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