

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 97-7561

CYRIACUS AKAS,

Defendant-Appellant.

Appeal from the United States District Court
for the District of Maryland, at Baltimore.

J. Frederick Motz, Chief District Judge.
(CR-91-305-HAR, CA-97-1979-JFM)

Submitted: June 9, 1998

Decided: September 11, 1998

Before MURNAGHAN, ERVIN, and WILKINS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Cyriacus Akas, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Cyriacus Akas seeks to appeal the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West 1994 & Supp. 1998). Because Akas filed his notice of appeal from this order more than sixty days after the district court entered judgment, we deny a certificate of appealability and dismiss the appeal of that order for lack of jurisdiction. See Fed. R. App. P. 4(a)(1).

Akas also seeks to appeal the district court's denial of his motion to vacate the dismissal order, properly construed as a motion under Fed. R. Civ. P. 60(b). The district court denied Akas' § 2255 motion as untimely filed, finding that he filed it two months after the one-year limitations period in § 2255 expired on April 24, 1997. Akas filed his motion to vacate the dismissal order, contending that his § 2255 motion was timely filed because he filed it within one year after the Supreme Court denied his petition for a writ of certiorari. The district court denied Akas' Rule 60(b) motion without explanation.

We review the denial of a motion for relief from judgment pursuant to Rule 60(b) for an abuse of discretion. See Heyman v. M.L. Mktg. Co., 116 F.3d 91, 94 (4th Cir. 1997). Where the motion seeks "reconsideration of legal issues already addressed in an earlier ruling, the motion `is not authorized by Rule 60(b),'" and rejection of the motion is not an abuse of discretion. CNF Constructors, Inc. v. Donohoe Constr. Co., 57 F.3d 395, 401 & n.2 (4th Cir. 1995) (quoting United States v. Williams, 674 F.2d 310, 313 (4th Cir. 1982)). Because Akas' motion sought reconsideration of the district court's previous legal determination as to when Akas' appeal became final, we find that the court did not abuse its discretion in denying relief. We therefore deny a certificate of appealability and dismiss this portion of the appeal.

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