

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7203

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CARLOS HECTOR RUELAS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T. S. Ellis, III, Senior District Judge. (1:05-cr-00442-TSE-3)

Submitted: January 7, 2008

Decided: January 18, 2008

Before NIEMEYER, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Sol Zalel Rosen, Washington, D.C., for Appellant. John C. Lynch, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Carlos Hector Ruelas, a federal prisoner, seeks to appeal the district court's order granting in part and denying in part his motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (2000). The district court granted relief under United States v. Peak, 992 F.2d 39 (4th Cir. 1993), on Ruelas' claim that counsel failed to file a notice of appeal from the criminal judgment after being directed to do so, vacated the criminal judgment, and reinstated the judgment to afford Ruelas an opportunity to file a direct appeal.* The district court denied Ruelas' remaining claims. Ruelas' direct appeal is currently pending before this court. Because the sentencing claims on which the district court denied § 2255 relief may be raised in the reinstated direct appeal, we deny a certificate of appealability and dismiss 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

*Ruelas does not challenge on appeal the district court's grant of relief under Peak.