

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6474

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICKY A. CARTER,

Movant - Appellant,

ERIC RIVERA,

Defendant.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Henry M. Herlong, Jr., District Judge. (6:03-cr-01092-HMH-12)

Submitted: October 3, 2008

Decided: October 31, 2008

Before MOTZ, TRAXLER, and SHEDD, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Ricky A. Carter, Appellant Pro Se. Regan Alexandra Pendleton, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Before the court is Ricky A. Carter's appeal of the district court's text order denying his motion to compel performance of a cooperation agreement Carter alleged he had with the Government.

We cannot discern from the record the basis for the district court's order. Accordingly, we vacate the district court's order and remand this case for further proceedings. On remand, the district court should first consider whether it has jurisdiction to consider Carter's motion. If the district court finds it has jurisdiction, the court should then instruct the Government to respond to Carter's motion and proceed accordingly. 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.

VACATED AND REMANDED