

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 16-7777**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STACY DEMORIS JOHNSON,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., Chief District Judge. (1:10-cr-00332-WO-5; 1:16-cv-01199-WO-LPA)

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Submitted: February 16, 2017

Decided: February 22, 2017

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Before GREGORY, Chief Judge, DUNCAN, Circuit Judge, and HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Stacy Demoris Johnson, Appellant Pro Se. Joan Brodish Childs, Sandra Jane Hairston, Robert Michael Hamilton, Angela Hewlett Miller, Assistant United States Attorneys, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Stacy Demoris Johnson appeals the district court's order accepting the recommendation of the magistrate judge, construing Johnson's Fed. R. Civ. P. 60(b) motion for reconsideration of the district court's order denying relief on his 28 U.S.C. § 2255 (2012) motion as a successive § 2255 motion, and dismissing it on that basis. We have reviewed the record and conclude that the district court correctly determined that Johnson's motion was not a "true Rule 60(b)" motion, but in substance a successive § 2255 motion. See United States v. McRae, 793 F.3d 392, 397-400 (4th Cir. 2015); see also Gonzalez v. Crosby, 545 U.S. 524, 531-32 (2005) (explaining how to differentiate a true Rule 60(b) motion from an unauthorized successive habeas corpus motion). Therefore, we conclude that Johnson is not required to obtain a certificate of appealability to appeal the district court's order. See Mcrae, 793 F.3d at 400. The district court also correctly concluded that in the absence of prefiling authorization, it lacked jurisdiction to hear a successive § 2255 motion. See 28 U.S.C. § 2244(b)(3) (2012).

Accordingly, we affirm the district court's order. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before this court and argument would not aid in the decisional process.

AFFIRMED