

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6635

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEVE DIAS, a/k/a Troy, a/k/a O'Neil Guthrie,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, District Judge. (3:04-cr-00259-HEH-2; 3:17-cv-00341-HEH)

Submitted: July 27, 2017

Decided: August 1, 2017

Before AGEE and FLOYD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Steve Dias, Appellant Pro Se. Thomas Arthur Garnett, Katherine Lee Martin, Stephen David Schiller, Assistant United States Attorneys, Heather Hart Mansfield, Olivia L. Norman, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Steve Dias appeals the district court's order construing his 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 Dias' 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 Dias 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