

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 21-7099**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DONALD OMAR FAZEL, a/k/a Rodney Dickerson, a/k/a Roscoe Barnes,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Anthony John Trenga, Senior District Judge. (1:17-cr-00014-AJT-1; 1:17-cv-01447-AJT)

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Submitted: December 16, 2021

Decided: December 20, 2021

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Before WYNN and RICHARDSON, Circuit Judges, and KEENAN, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Donald Omar Fazel, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Donald Omar Fazel seeks to appeal the district court's June 30, 2021, order (1) directing the Government to respond to the unresolved claims from Fazel's initial 28 U.S.C. § 2255 motion; (2) denying Fazel's motion to appoint counsel; and (3) construing Fazel's motions to amend his initial § 2255 motion as successive § 2255 motions and dismissing them for lack of jurisdiction. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291, and certain interlocutory and collateral orders, 28 U.S.C. § 1292; Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). The order Fazel seeks to appeal is neither a final order nor an appealable interlocutory or collateral order.\* Accordingly, we deny as moot Fazel's motion to expedite and dismiss the appeal for lack of jurisdiction. 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 the decisional process.

*DISMISSED*

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\* Motions seeking to raise additional § 2255 claims prior to the district court's final adjudication of the first § 2255 motion are properly construed as motions to amend, *Farabee v. Clarke*, 967 F.3d 380, 389 (4th Cir. 2020), and the denial of a motion to amend is not immediately appealable, *Bridges v. Dep't of Md. State Police*, 441 F.3d 197, 206 (4th Cir. 2006). The denial of a motion to appoint counsel is also not immediately appealable. *Miller v. Simmons*, 814 F.2d 962, 964 (4th Cir. 1987).