

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8474

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER EUBANKS,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. James E. Seibert, Magistrate Judge. (5:06-cr-00033-FPS-JES-2; 5:07-cv-00153-FPS)

Submitted: March 11, 2009

Decided: March 25, 2009

Before WILKINSON, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Christopher Eubanks, Appellant Pro Se. John Castle Parr, Assistant United States Attorney, Wheeling, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Christopher Eubanks seeks to appeal the magistrate judge's order denying his motion for default judgment on his pending 28 U.S.C. § 2255 (2006) motion to vacate, set aside or correct his sentence. This court may exercise jurisdiction only over final orders and certain interlocutory and collateral orders. 28 U.S.C.A. §§ 1291, 1292 (2006); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Eubanks seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction. Eubanks' motion for a certificate of appealability is denied as moot. 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