US v. Charazz Moran Doc. 920090827

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6794

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHARAZZ KEVIN MORAN,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, Senior District Judge. (7:06-cr-00051-jct)

Submitted: August 20, 2009 Decided: August 27, 2009

Before WILKINSON and MICHAEL, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Charazz Kevin Moran, Appellant Pro Se. Donald Ray Wolthuis, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

Dockets.Justia.com

PER CURIAM:

Charazz Kevin Moran seeks to appeal the district court's grant of partial summary judgment on Moran's 28 U.S.C.A. § 2255 (West Supp. 2009) motion. Though his appeal was filed pro se, Moran's district court counsel has filed a motion before us on Moran's behalf, acknowledging that this appeal is interlocutory, but requesting this court stay consideration of the appeal pending the district court's final disposition of the remainder of Moran's § 2255 claims. Alternatively, counsel requests this court dismiss Moran's appeal without prejudice to his ability to refile at the close of the district court's proceedings.

This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2006), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2006); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). The order Moran seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we deny Moran's motion to stay and dismiss the appeal for lack of jurisdiction. Our dismissal is without prejudice to Moran's right to refile his appeal after the district court has entered a final order. 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