

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7766

MONTE DECARLOS WINSTON,

Petitioner - Appellant,

v.

PATRICIA R. STANSBERRY,

Respondent - Appellee.

No. 09-7854

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MONTE DECARLOS WINSTON,

Defendant - Appellant.

Appeals from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, Senior District Judge; M. Hannah Lauck, Magistrate Judge. (3:99-cr-00030-REP-1; 3:08-cv-00553-MHL)

Submitted: June 17, 2010

Decided: June 23, 2010

Before MOTZ and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

No. 09-7766 affirmed; No. 09-7854 dismissed by unpublished per curiam opinion.

Monte Decarlos Winston, Appellant Pro Se. Debra J. Prillaman, Stephen Wiley Miller, Assistant United States Attorneys, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Monte Decarlos Winston, a federal prisoner, appeals the district court's order denying his 28 U.S.C. § 2241 (2006) petition,¹ which challenged the Bureau of Prisons' computation of his sentence. Winston also filed a notice of appeal in his criminal case. See United States v. Winston, No. 3:99-cr-00030-REP-1 (E.D. Va. May 27, 2003). These appeals have been consolidated, because both informal briefs demonstrate Winston's intent to appeal the district court's order denying his § 2241 petition and the issues raised therein are substantially similar.

We have reviewed the record and find no reversible error. Accordingly, we affirm the order denying Winston's § 2241 petition for the reasons stated by the district court. See Winston v. Stansberry, No. 3:08-cv-00553-MHL (E.D. Va. July 21, 2009). Further, we dismiss as duplicative the appeal filed in Winston's criminal case.²

¹ Pursuant to the parties' consent under 28 U.S.C. § 636(c) (2006), this case was decided by a magistrate judge.

² To the extent that Winston appeals his underlying criminal judgment, the appeal is subject to dismissal due to its untimeliness. Winston's criminal judgment was entered on May 28, 2003, and Winston's notice of appeal was filed on August 10, 2009. Accordingly, the appeal of Winston's criminal judgment is exceedingly late. See Fed. R. App. P. 4(b).

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.

No. 09-7766 AFFIRMED
No. 09-7854 DISMISSED