

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7180

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN ANTHONY PETERSON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Greenville. W. Earl Britt, Senior District Judge. (4:07-cr-00045-BR-1)

Submitted: December 17, 2015

Decided: March 4, 2016

Before GREGORY, DIAZ, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

John Anthony Peterson, Appellant Pro Se. Kristine L. Fritz, Eric David Goulian, OFFICE OF THE UNITED STATES ATTORNEY, Jennifer P. May-Parker, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Anthony Peterson seeks to appeal the district court's order characterizing his "Motion to Dismiss Indictment and Void Judgment for Lack of Subject Matter Jurisdiction" as a 28 U.S.C. § 2255 (2012) motion and denying the motion without prejudice to Peterson filing on the proper form. On appeal, Peterson contends that the court erred by characterizing his pleading as a § 2255 motion and requests that this court or the district court consider his motion as he presented it.

The district court did not provide the notice required under Castro v. United States, 540 U.S. 375, 383 (2003), before recharacterizing Peterson's pleading as an initial § 2255 motion. But we may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-46 (1949). The order Peterson seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. See Goode v. Cent. Va. Legal Aid Soc'y, Inc., 807 F.3d 619, 623 (2015). Accordingly, we 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