

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-6304

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERTO ANTOINE DARDEN, a/k/a Dizz-e, a/k/a Javon,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Arenda L. Wright Allen, District Judge. (4:11-cr-00052-AWA-LRL-1; 4:14-cv-00136-AWA)

Submitted: August 30, 2018

Decided: September 7, 2018

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

Dismissed and remanded by unpublished per curiam opinion.

Roberto Antoine Darden, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roberto Antoine Darden seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 (2012) motion. This court 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). "Ordinarily, a district court order is not final until it has resolved *all* claims as to all parties." *Porter v. Zook*, 803 F.3d 694, 696 (4th Cir. 2015) (internal quotation marks omitted). "[I]f it appears from the record that the district court has not adjudicated all of the issues in a case, then there is no final order." *Id.* (applying rule to habeas cases).

Upon review of the record, we conclude that the district court did not rule on Darden's claims that counsel provided ineffective assistance by failing to move to suppress the seizure of certain evidence from a plastic tub Darden left at a former residence and by failing to file a motion in limine excluding statements from the victim regarding a photo lineup containing Darden. Thus, the order Darden seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. *See id.*

Accordingly, we dismiss the appeal for lack of jurisdiction and remand the case to the district court for the court to consider the ineffective assistance claims on which it did not rule. We deny Darden's motion for a transcript at government expense and deny as unnecessary Darden's motion for a certificate of appealability. 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 AND REMANDED