

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 18-6746**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARIUS DONNELL FREEMAN,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Robert J. Conrad, Jr., District Judge. (5:13-cr-00080-RJC-DSC-1; 5:18-cv-00013-RJC)

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Submitted: October 18, 2018

Decided: October 23, 2018

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Before GREGORY, Chief Judge, KEENAN, Circuit Judge, and HAMILTON, Senior Circuit Judge.

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Dismissed and remanded by unpublished per curiam opinion.

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Darius Donnell Freeman, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darius Donnell Freeman 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); Fed. R. Civ. P. 15(a)(1)(A) (permitting party to amend complaint once as matter of right before responsive pleading is served).

Upon review of the record, we conclude that the district court did not rule on Freeman's motion for leave to amend his § 2255 motion, which was docketed in his civil case, No. 5:18-cv-00013-RJC, prior to the entry of the district court's order denying § 2255 relief. Thus, the order Freeman seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. *See Porter*, 803 F.3d at 696.

Accordingly, we dismiss the appeal for lack of jurisdiction and remand the case to the district court to consider Freeman's motion for leave to amend. We deny Freeman's motion for a certificate of appealability as unnecessary. 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*