

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-6127

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN ROMA BRYAN, III,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Big Stone Gap. James P. Jones, District Judge. (2:15-cr-00015-JPJ-6; 2:17-cv-81260-JPJ-PMS)

Submitted: October 31, 2019

Decided: November 15, 2019

Before KING, THACKER, and QUATTLEBAUM, Circuit Judges.

Dismissed and remanded by unpublished per curiam opinion.

John Roma Bryan, III, Appellant Pro Se. Erin Marie Harrigan Kulpa, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charlottesville, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Roma Bryan, III, seeks to appeal the district court's order denying his motion filed pursuant to 28 U.S.C. § 2255 (2012). Although the parties have not questioned our jurisdiction, we “have an independent obligation to verify the existence of appellate jurisdiction.” *Williamson v. Stirling*, 912 F.3d 154, 168 (4th Cir. 2018) (internal quotation marks omitted). We may exercise jurisdiction only over final orders and certain interlocutory and collateral orders. 28 U.S.C. §§ 1291, 1292 (2012); Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). Our review of the record reveals that the district court's order is not a final order because the court did not rule on Bryan's claims challenging the adequacy of the factual basis supporting his guilty plea to the firearm offense and asserting that counsel was ineffective at sentencing for failing to advise Bryan of U.S. Sentencing Guidelines Manual § 5K2.23, p.s. (2015), and to argue for a downward departure under that Guidelines provision, all raised in his response to the Government's “Motion to Dismiss in Response to Petitioner's [§] 2255 Petition.” *See Porter v. Zook*, 803 F.3d 694, 696-97 (4th Cir. 2015).

Accordingly, we dismiss the appeal as interlocutory and remand to the district court for consideration of the unresolved claims. *See id.* at 699. 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