

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6901

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PEGGY SHELTON MCCARSON,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Henry M. Herlong, Jr., Senior District Judge. (6:17-cr-00934-HMH-1)

Submitted: August 21, 2020

Decided: August 27, 2020

Before GREGORY, Chief Judge, and NIEMEYER and THACKER, Circuit Judges.

Dismissed and remanded by unpublished per curiam opinion.

Peggy Shelton McCarson, Appellant Pro Se. William Jacob Watkins, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Peggy Shelton McCarson seeks to appeal the district court’s order denying her motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i). This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2018), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2018); 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).

Our review of the record reveals that the district court did not adjudicate all of the claims raised in McCarson’s motion for compassionate release. *See id.* at 696-97. Specifically, the court failed to address McCarson’s claim that her heightened susceptibility to COVID-19 is an extraordinary and compelling reason justifying compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i).^{*} We conclude that the order McCarson seeks to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss the appeal for lack of jurisdiction and remand to the district court for consideration of the unresolved claim. *Id.* at 699. We express no view as to the merits of the claim. We deny as moot McCarson’s motion for release pending appeal.

^{*} The district court considered McCarson’s claim that she was eligible for compassionate release based on her diagnosis of chronic lymphocytic leukemia (“CLL”), but it did not consider her claim that she was eligible for compassionate release because her CLL and the failure of her custodial facility to effectively quarantine its inmates increased her susceptibility to COVID-19.

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