

UNPUBLISHED

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

No. 20-7079

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH MICHAEL GUARASCIO,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (7:09-cr-00109-D-1; 7:11-cv-00044-D)

Submitted: December 17, 2020

Decided: December 22, 2020

Before THACKER, HARRIS, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Joseph Michael Guarascio, Appellant Pro Se. David A. Bragdon, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joseph Michael Guarascio appeals the district court's order construing his motion for relief from judgment, filed pursuant to Fed. R. Civ. P. 60(b)(6), (d)(3), as an unauthorized, successive 28 U.S.C. § 2255 motion and dismissing it for lack of jurisdiction.* Our review of the record confirms that the district court properly construed Guarascio's Rule 60 motion as a successive § 2255 motion over which it lacked jurisdiction because Guarascio failed to obtain prefiling authorization from this court. *See* 28 U.S.C. §§ 2244(b)(3)(A), 2255(h); *McRae*, 793 F.3d at 397-400. Accordingly, we affirm the district court's order.

Consistent with our decision in *United States v. Winestock*, 340 F.3d 200, 208 (4th Cir. 2003), we construe Guarascio's notice of appeal and informal brief as an application to file a second or successive § 2255 motion. Upon review, we conclude that Guarascio's claims do not meet the relevant standard. *See* 28 U.S.C. § 2255(h). We therefore deny authorization to file a successive § 2255 motion.

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.

AFFIRMED

* A certificate of appealability is not required to appeal the district court's jurisdictional categorization of a Rule 60(b) motion as an unauthorized, successive § 2255 motion. *United States v. McRae*, 793 F.3d 392, 400 (4th Cir. 2015).