

**UNPUBLISHED**

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

---

**No. 20-7258**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAMION BUNCH,

Defendant - Appellant.

---

Appeal from the United States District Court for the Eastern District of Virginia, at  
Newport News. Robert G. Doumar, Senior District Judge. (4:15-cr-00087-RGD-LRL-1)

---

Submitted: October 30, 2020

Decided: November 4, 2020

---

Before AGEE, THACKER, and HARRIS, Circuit Judges.

---

Vacated and remanded by unpublished per curiam opinion.

---

Damion Bunch, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Damion Bunch appeals the district court's order dismissing without prejudice his motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A), as amended by the First Step Act of 2018, Pub. L. No. 115-391, § 603(b)(1), 132 Stat. 5194, 5239, for lack of jurisdiction. The district court reasoned that, because Bunch filed his motion while his appeal of his collateral challenge to the judgment was pending, the court did not have jurisdiction over the matter.

“Generally, a timely filed notice of appeal transfers jurisdiction of a case to the court of appeals and strips a district court of jurisdiction to rule on any matters involved in the appeal.” *Doe v. Pub. Citizen*, 749 F.3d 246, 258 (4th Cir. 2014). Because Bunch's prior appeal was pending before us, the district court lacked the authority to grant Bunch's motion, but the court was permitted to defer considering the motion, deny the motion, or issue an indicative ruling. *See United States v. Pawlowski*, 967 F.3d 327, 329 n.4 (3d Cir. 2020) (citing Fed. R. Crim. P. 37(a)).

Although the district court suggested that it would defer consideration of the motion, instead of doing so, it dismissed the motion for lack of jurisdiction. We conclude that the district court erred in dismissing the motion and should have resolved the motion within the limits of Rule 37(a). Therefore, we vacate the district court's order and remand for further proceedings consistent with this opinion. We express no opinion on whether Bunch is entitled to relief on his 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.

*VACATED AND REMANDED*