

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7866

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LLOYD B. CARR,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Parkersburg. Joseph R. Goodwin, District Judge. (6:12-cr-00210-1; 2:18-cv-01188)

Submitted: May 31, 2022

Decided: June 6, 2022

Before AGEE, WYNN, and HEYTENS, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Lloyd B. Carr, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lloyd B. Carr appeals the district court's order denying his second motion to extend the time for filing objections to the magistrate judge's recommendation, finding that Carr failed to file timely objections, accepting the magistrate judge's recommendation, and dismissing without prejudice as untimely Carr's 28 U.S.C. § 2255 motion. On appeal, Carr asserts that the district court erred by denying his motion to extend the time to file objections—in which he presented grounds for applying equitable tolling of the limitations period, as directed by the magistrate judge in accordance with *Hill v. Braxton*, 277 F.3d 701 (4th Cir. 2002)—and he reiterates the claims raised in his § 2255 motion. We conclude that a certificate of appealability is not required to appeal the denial of the motion to extend the time to file objections, *see Harbison v. Bell*, 556 U.S. 180, 183 (2009), and that the district court should have construed Carr's second request for an extension of time as his objections to the magistrate judge's recommendation to dismiss the § 2255 motion as untimely, *see Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (stating that pro se filings should be liberally construed).

Accordingly, we vacate the district court's order and remand for the district court to review de novo Carr's timely filed objections. We also deny as unnecessary a certificate of appealability and express no opinion regarding the ultimate disposition of Carr's § 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.

VACATED AND REMANDED