

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 16-51455
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
November 28, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DAVID ANDREW DIEHL, also known as David A. Diehl,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:16-CV-1124
USDC No. 1:10-CR-297-1

Before KING, ELROD, and HIGGINSON, Circuit Judges.

PER CURIAM:*

David Andrew Diehl, federal prisoner # 53214-018, appeals the district court's order in a discovery dispute pertaining to Diehl's 28 U.S.C. § 2255 proceeding. Diehl was convicted in 2011 of 10 counts of production of child pornography. After a bench trial, he was sentenced to 600 months of

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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imprisonment. This court affirmed, and on October 5, 2015, the Supreme Court denied certiorari.

Diehl filed a discovery motion in the district court in anticipation of seeking relief pursuant to 28 U.S.C. § 2255. The district court denied the motion, and the government then moved pursuant to 18 U.S.C. § 3509(d) for an order directing Diehl and his former attorney to return all discovery materials previously provided to them. The magistrate judge ordered Diehl to explain what discovery materials he needed and why. Diehl objected, and the district court overruled the objections and affirmed. Diehl then filed a timely notice of appeal.

During the course of the discovery dispute, Diehl timely filed a § 2255 motion in the district court. That motion is still pending.

We are obligated to examine the basis of our own jurisdiction. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). Generally, our jurisdiction is limited to the review of final orders, qualified interlocutory orders, and certain collateral orders. *Goodman v. Harris Cty.*, 443 F.3d 464, 467 (5th Cir. 2006). Discovery orders are generally not appealable. *Id.* Here, Diehl seeks to appeal an order requiring him to explain what discovery he needs and why. We lack jurisdiction to review the district court's interlocutory ruling. *See id.* at 467-69.

Accordingly, we DISMISS the appeal for lack of jurisdiction. Diehl's motion for leave to file a supplementary brief is DENIED as moot.