

APPENDIX A

FILED: February 27, 2019

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 18-7160  
(2:94-cr-00015-BO-9)  
(2:17-cv-00055-BO)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

RODERICK BLACK, a/k/a Roger

Defendant - Appellant

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JUDGMENT

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In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

**UNPUBLISHED****UNITED STATES COURT OF APPEALS  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

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**No. 18-7160**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RODERICK BLACK, a/k/a Roger,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Elizabeth City. Terrence W. Boyle, Chief District Judge. (2:94-cr-00015-BO-9; 2:17-cv-00055-BO)

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Submitted: February 20, 2019

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Decided: February 27, 2019

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Before AGEE, DIAZ, and THACKER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Roderick Black, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

Roderick Black appeals the district court's order construing his Fed. R. Civ. P. 60(b) motion as an unauthorized successive 28 U.S.C. § 2255 (2012) motion and dismissing it for lack of jurisdiction. We have reviewed the record and find no reversible error.

In the same order, the district court denied relief on two motions Black labeled “Motion to Modify Sentence Pursuant to 18 U.S.C. § 3582(c)(2)” and “Motion for Reconsideration of the Court’s Denial of Defendant’s 18 U.S.C. § 3582(c)(2).” On appeal, we confine our review to the issues raised in the Appellant’s brief. *See* 4th Cir. R. 34(b). Because Black’s informal brief does not challenge the bases for the district court’s disposition of these other motions, Black has forfeited appellate review of that portion of the district court’s order. *See Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) (“The informal brief is an important document; under Fourth Circuit rules, our review is limited to issues preserved in that brief.”).

Accordingly, we deny as unnecessary a certificate of appealability (“COA”) and affirm. *See United States v. McRae*, 793 F.3d 392, 400 (4th Cir. 2015) (“[W]e need not issue a COA before determining whether the district court erred in dismissing [a] purported Rule 60(b) motion as an unauthorized successive habeas petition.”). 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*

APPENDIX B

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION  
NO. 2:94-CR-15-BO-9  
NO. 2:14-CV-35-BO  
NO. 2:17-CV-55-BO

RODERICK BLACK,  
Petitioner,

v.

UNITED STATES OF AMERICA,  
Respondent.

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ORDER

This cause comes before the Court on petitioner's motion under Federal Rule of Civil Procedure 60(b) [DE 607] and motions under 18 U.S.C. § 3582(c). [DE 591, 593]. The government has responded, and the matters are ripe for ruling. For the following reasons, petitioner's motions are denied.

BACKGROUND

On September 2, 1884, a jury convicted petitioner of fourteen counts of narcotics and firearms offenses. [DE 247]. Petitioner was sentenced to life imprisonment on counts 1, 2, 7, 21, 28, 32-35, 38-40 and 41, and 60 months, consecutive, on count 3, on December 8, 1994. [DE 249]. The Fourth Circuit affirmed the judgment [DE 299], and petitioner's motion pursuant to 28 U.S.C. § 2255 was dismissed on March 15, 2001. [DE 375]. Petitioner's second motion under § 2255 was dismissed on November 22, 2010 [DE 502]. On August 16, 2016, in accordance with 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10(c), and U.S.S.G. Amendment 782, petitioner's sentence on counts 1, 2, 7, 21, 28, 32-35, 38-40 and 41 was reduced from life to 360 months. [DE 584]. His 60-month sentence on count 3 remained consecutive to the other counts.

DISCUSSION

Petitioner filed the instant motions seeking two avenues of relief. First, he alleges that his conviction and sentence should be vacated since his prosecutor was not licensed to practice law in North Carolina. Second, he asks that his sentence be reduced pursuant to 18 U.S.C. § 3582(c).

First, petitioner's motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure must be dismissed for lack of jurisdiction. The relief petitioner seeks is that which would be obtained by a successful § 2255 motion to vacate. This Court lacks jurisdiction to hear second or successive § 225 motions without authorization from the Fourth Circuit. *United States v. Winestock*, 340 F.3d 200, 207 (4th Cir. 2003). Petitioner has already had a § 2255 motion resolved by this Court, and he has not demonstrated that this motion is not successive, or that the Fourth Circuit has granted him pre-filing authorization.

Second, petitioner has argued he has two grounds for relief under 18 U.S.C. § 3582(c). Both grounds fail. Petitioner's motion for a reduction pursuant to Amendment 782 is dismissed because in 2016 petitioner received a reduction pursuant to Amendment 782. Petitioner's second argument is a factual challenge to the amount of drugs attributed to him at time of sentencing. That type of challenge is not cognizable under § 3582(c).

#### CONCLUSION

For the foregoing reasons, petitioner's motions [DE 591, 593, 607] are DENIED.

SO ORDERED, this 22 day of August, 2018.

  
TERRENCE W. BOYLE  
UNITED STATES DISTRICT JUDGE

I certify the foregoing to be a true and correct copy of the original.

Peter A. Moore, Jr., Clerk

United States District Court

Eastern District of North Carolina

By: 

Deputy



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Clerk's Office.**