

BLD-087

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. **24-1006**

UNITED STATES OF AMERICA

v.

ANDERSON JOSE COUTINHO-SILVA,
Appellant

(E.D. Pa. Crim. No. 2-10-cr-00002-001)

Present: BIBAS, MATEY, and CHUNG, Circuit Judges

Submitted are:

- (1) By the Clerk for possible dismissal due to a jurisdictional defect; and
- (2) Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,

Clerk

ORDER

The appeal is dismissed for lack of jurisdiction. An order entered by a district court that decides fewer than all of the claims, or determines the rights and liabilities of fewer than all of the parties, is not immediately appealable unless the district court directs the entry of a final judgment as to the claim(s) or party(ies) under Federal Rule of Civil Procedure 54(b). This rule applies to § 2255 proceedings. See United States v. Hammer, 564 F.3d 628, 632 (3d Cir. 2009). Because Appellant's "Amended Motion Under 28 U.S.C. § 2255" and his motions to supplement that motion are still pending in the District Court, the District Court's order entered November 2, 2023, is not final or immediately

appealable. This ruling is without prejudice to Appellant's ability to file a notice of appeal and request a certificate of appealability once the District Court has entered its final order.

By the Court,

s/ Paul B. Matey

Circuit Judge

Dated: May 1, 2024

Tmm/cc: Anderson Jose Coutinho-Silva

Robert A. Zauzmer, Esq.



A True Copy:

Patricia S. Dodszeit

Patricia S. Dodszeit, Clerk
Certified Order Issued in Lieu of Mandate

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL ACTION
	:	
	:	
v.	:	
	:	
ANDERSON JOSE COUTINHO-SILVA	:	No. 10-002
	:	
	:	

ORDER

AND NOW, this 2nd day of November 2023, upon consideration of Mr. Coutinho-Silva's Motion to Correct Sentence Under 28 U.S.C. § 2255 (Doc. No. 47), Pro Se Motion Requesting the Court Take Judicial Notice of Adjudicative Facts (Doc. No. 51), Pro Se Motion to Supplement 2255 Motion (Doc. No. 52), Pro Se Motion to Supplement 2255 Motion (Doc. No. 55), Pro Se Motion for Appointment of Court Appointed Counsel (Doc. No. 57), Pro Se Motion Requesting the Court Take Judicial Notice of Adjudicative Facts (Doc. No. 76), Pro Se Motion to Supplement 2255 Motion (Doc. No. 77), Pro Se Motion to Clarify (Doc. No. 78), Pro Se Motion to Supplement 2255 Motion (Doc. No. 82), and Pro Se Motion for Leave of Court to File a Notice (Doc. No. 84), it is hereby **ORDERED** that:

1. Mr. Coutinho-Silva's Motion to Correct Sentence Under 28 U.S.C. § 2255 (Doc. No. 47) is **DENIED**;
2. Mr. Coutinho-Silva's Pro Se Motion Requesting the Court Take Judicial Notice of Adjudicative Facts (Doc. No. 51), Pro Se Motion to Supplement 2255 Motion (Doc. No. 52), and Pro Se Motion to Supplement 2255 Motion (Doc. No. 55) are **DENIED**;
3. Mr. Coutinho-Silva's Pro Se Motion for Appointment of Court Appointed Counsel (Doc. No. 57), Pro Se Motion Requesting the Court Take Judicial Notice of Adjudicative Facts (Doc. No. 76), Pro Se Motion to Supplement 2255 Motion (Doc. No. 77), Pro Se Motion

to Clarify (Doc. No. 78), Pro Se Motion to Supplement 2255 Motion (Doc. No. 82), and Pro Se Motion for Leave of Court to File a Notice (Doc. No. 84) are **DENIED IN PART**;¹

4. There is no probable cause to issue a Certificate of Appealability.²

BY THE COURT:

A handwritten signature in black ink, appearing to read "Gene E.K. Pratter", is written over a horizontal line.

GENE E.K. PRATTER
UNITED STATES DISTRICT JUDGE

¹ These motions are denied insofar as they relate to Mr. Coutinho-Silva's first § 2255 Motion (Doc. No. 47) and not his second § 2255 Motion (Doc. No. 56).

² A Certificate of Appealability may issue upon a substantial showing that "reasonable jurists could debate whether . . . the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). As discussed in the accompanying memorandum, the legal basis for Mr. Coutinho-Silva's motion has now been squarely rejected by the Third Circuit Court of Appeals. Reasonable jurists therefore could not debate this resolution of his petition, and the issues presented therein do not deserve encouragement to proceed further.

**Additional material
from this filing is
available in the
Clerk's Office.**