

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6794

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WEBSTER DOUGLAS WILLIAMS, III,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. R. Bryan Harwell, District Judge. (4:12-cr-00969-RBH-1; 4:17-cv-00350-RBH)

Submitted: August 17, 2017

Decided: August 22, 2017

Before KEENAN, THACKER, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Webster Douglas Williams, III, Appellant Pro Se. William E. Day, II, Assistant United States Attorney, Florence, South Carolina; Stanley D. Ragsdale, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Webster Douglas Williams, III, seeks to appeal the district court's orders denying his motions for default judgment and to strike the Government's response to Williams' 28 U.S.C. § 2255 (2012) motion. This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2012), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2012); Fed. R. Civ. P. 54(b); *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 545-46 (1949). The orders Williams seeks to appeal are neither final orders nor appealable interlocutory or collateral orders. Accordingly, we deny Williams' motions to strike the Government's response and to correct error and we dismiss the appeal for lack of jurisdiction. 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.

DISMISSED

FILED: August 22, 2017

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(4:12-cr-00969-RBH-1)
(4:17-cv-00350-RBH)

UNITED STATES OF AMERICA

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Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, this appeal is dismissed.

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

U.S. District Court

District of South Carolina
Notice of Electronic Filing

The following transaction was entered on 6/7/2017 at 9:22 AM EDT and filed on 6/7/2017

Case Name: USA v. Williams

Case Number: 4:12-cr-00969-RBH

Filer:

Document Number: **331(No document attached)**

Docket Text:

TEXT ORDER denying Petitioner's pro se [311] motion to strike the affidavit of trial counsel, Thomas C. Brittain, Sr., as untimely. A review of court filings indicates that the affidavit is not untimely, but if it is, then only by a day or two. Even if the affidavit is untimely, Petitioner has suffered no prejudice as a result of any alleged untimely filing. Signed by Honorable R Bryan Harwell on 6/7/2017.(tmcb,)

4:12-cr-00969-RBH-1 Notice has been electronically mailed to:

William E Day, II
Stanley D Ragsdale
William F Nettles, IV

U.S. District Court

District of South Carolina
Notice of Electronic Filing

The following transaction was entered on 6/7/2017 at 9:25 AM EDT and filed on 6/7/2017

Case Name: USA v. Williams

Case Number: 4:12-cr-00969-RBH

Filer:

Document Number: 332(No document attached)

Docket Text:

TEXT ORDER denying Petitioner's pro se [322] motion to strike the affidavits of Thomas C. Brittain, Sr. and T. Casey Brittain, Jr. as untimely. A review of court filings indicates that the affidavits are not untimely, but if they are, then only by a day or two. Even if the affidavits are untimely, Petitioner has suffered no prejudice as a result of any alleged untimely filing. Signed by Honorable R Bryan Harwell on 6/7/2017.(tmcb,)

4:12-cr-00969-RBH-1 Notice has been electronically mailed to:

William E Day, II
Stanley D Ragsdale
William F Nettles, IV

U.S. District Court
District of South Carolina
Notice of Electronic Filing

The following transaction was entered on 6/7/2017 at 9:45 AM EDT and filed on 6/7/2017

Case Name: USA v. Williams

Case Number: 4:12-cr-00969-RBH

Filer:

Document Number: 334(No document attached)

Docket Text:

TEXT ORDER granting in part and denying in part Petitioner's pro se [328] motion for extension of time and for clarification. Petitioner requests an extension of time and clarification as to what Petitioner should respond to in light of the government's response and motion for summary judgment, which Petitioner states is untimely and appears to be a response to Petitioner's original motion to vacate [194] that was dismissed without prejudice, rather than the currently pending motion to vacate found at docket entries [291] and [296]. Petitioner asks the Court to strike the government's motion for summary judgment as untimely. Petitioner also requests a 14 day extension of time to allow the Court to rule on his motion to strike before he expends resources responding to the government's motion.

Upon review of the filings, it appears that the government's memorandum in response to Petitioner's motion to vacate [319] references grounds raised in Petitioner's original motion to vacate [194] that was dismissed without prejudice and does not fully address the grounds raised in the currently pending motion to vacate found at docket entries [291] and [296]. Therefore, the government shall, within 15 days, file a supplemental response in opposition to Petitioner's motion to vacate found at docket entries [291] and [296]. Further, because this Court has recently granted Petitioner's motion to amend, the government shall also respond to Petitioner's ground thirty one, which is set forth in docket entry [305-1]. To be clear, the government shall address all of Petitioner's grounds, which can be found at docket entries [291], [296], and [305-1].

The Court declines to strike the government's motion for summary judgment as untimely because Petitioner has suffered no prejudice as a result of the alleged untimely filing. Petitioner shall have 30 days to respond to the government's motion for summary judgment once the government files its supplemental response fully addressing Petitioner's grounds for relief found at docket entries [291], [296], and [305-1]. Signed by Honorable R Bryan Harwell on 6/7/2017.(tmcb,)

4:12-cr-00969-RBH-1 Notice has been electronically mailed to:

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992 F.2d 489, 490 (4th Cir. 1993).

Conclusion

For the reasons set forth above, the Government is entitled to summary judgment as to this petition.

RESPECTFULLY SUBMITTED:

BETH DRAKE
UNITED STATES ATTORNEY

BY: s/ William E. Day, II
WILLIAM E. DAY, II
Assistant U.S. Attorney
1441 Main Street, Suite 500
Columbia, SC 29201
(803) 929-3000

June 22, 2017

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ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk