

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6485

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARY M. MOONEY,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Beaufort.
David C. Norton, District Judge. (9:14-cr-00054-DCN-2; 9:19-cv-02952-DCN)

Submitted: July 20, 2023

Decided: July 25, 2023

Before NIEMEYER and THACKER, Circuit Judges, and KEENAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Mary M. Mooney, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mary M. Mooney appeals the district court's order construing her motion to reconsider as a Fed. R. Civ. P. 60(b) motion for relief from judgment, determining that it was an unauthorized, successive 28 U.S.C. § 2255 motion, and dismissing it on that basis.¹ Our review of the record reveals no reversible error in the district court's conclusion that Mooney's motion was not timely filed under Fed. R. Civ. P. 59(e) and, thus, was properly considered to have been filed pursuant to Rule 60(b). We further conclude that the district court properly construed Mooney's Rule 60(b) motion as a successive § 2255 motion over which it lacked jurisdiction because she had not obtained prefiling authorization from this court. *See* 28 U.S.C. §§ 2244(b)(3)(A), 2255(h); *McRae*, 793 F.3d at 397-400. Accordingly, we affirm the district court's order.²

Consistent with our decision in *United States v. Winestock*, 340 F.3d 200, 208 (4th Cir. 2003), we construe Mooney's notice of appeal and informal brief as an application to file a second or successive § 2255 motion. Upon review, we conclude that Mooney's claims do not meet the relevant standard. *See* 28 U.S.C. § 2255(h). We therefore deny authorization to file a successive § 2255 motion.

¹ A certificate of appealability is not required to appeal the district court's jurisdictional categorization of a Rule 60(b) motion as an unauthorized, successive § 2255 motion. *United States v. McRae*, 793 F.3d 392, 400 (4th Cir. 2015).

² Because Mooney's motion to reconsider was filed more than 28 days after entry of the district court's order denying her § 2255 motion, that denial order is not properly before us in this appeal. *See* Fed. R. App. P. 4(a)(4)(A)(iv), (vi); *Aikens v. Ingram*, 652 F.3d 496, 501 (4th Cir. 2011) (en banc) (“[A]n appeal from denial of Rule 60(b) relief does not bring up the underlying judgment for review.” (internal quotation marks omitted)).

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