

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6006

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KELVIN MAURICE HORNE, a/k/a Speedy,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., District Judge. (1:17-cr-00288-WO-1; 1:24-cv-00782-WO-LPA)

Submitted: May 15, 2025

Decided: May 20, 2025

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

Affirmed by unpublished per curiam opinion.

Kelvin Maurice Horne, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kelvin Maurice Horne, a federal prisoner, appeals the district court's order accepting the magistrate judge's recommendation, construing Horne's petition for a writ of error coram nobis as an unauthorized, successive 28 U.S.C. § 2255 motion, and dismissing it on that basis.* Horne claims that the court erred in construing his petition as a § 2255 motion and that he can seek relief in a petition for writ of error coram nobis because he has no other available remedies. Coram nobis, however, is an extraordinary remedy available only when the movant demonstrates a fundamental error, for which a more usual remedy is not available, and a valid reason for not attacking his convictions earlier. *United States v. Lesane*, 40 F.4th 191, 197 (4th Cir. 2022).

Here, Horne is in federal custody, so the more usual remedy for challenging the validity of his convictions—a § 2255 motion—is available. And because Horne could have raised the issue he asserted in his petition for writ of error coram nobis in a direct appeal or in his first § 2255 motion but did not do so, he has not shown that a valid reason exists for not raising the issue earlier. We therefore conclude that the district court correctly construed Horne's petition as a successive § 2255 motion and dismissed it for lack of jurisdiction because Horne did not obtain authorization from this court to file it. We thus affirm the district court's order.

* A certificate of appealability is not needed to appeal the district court's jurisdictional dismissal of Horne's petition for writ of error coram nobis as an unauthorized, successive § 2255 motion. See *United States v. McRae*, 793 F.3d 392, 400 (4th Cir. 2015).

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