

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6144

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAHKEEM LEE MCDONALD, a/k/a Hitman, a/k/a Big Keem,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Max O. Cogburn, Jr., District Judge. (3:14-cr-00229-MOC-DCK-12, 3:21-cv-00309-MOC)

Submitted: June 12, 2025

Decided: June 17, 2025

Before HARRIS and HEYTENS, Circuit Judges, and FLOYD, Senior Circuit Judge.

Vacated and remanded with instructions by unpublished per curiam opinion.

Rahkeem Lee McDonald, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rahkeem Lee McDonald appeals the district court’s order construing his Fed. R. Civ. P. 60(b)(6) motion as an unauthorized, successive 28 U.S.C. § 2255 motion and denying it.* Although we agree with the district court’s characterization of McDonald’s Rule 60(b)(6) motion, we conclude that the district court should have dismissed the motion for lack of subject matter jurisdiction rather than deny it. *See Bixby*, 90 F.4th at 155 (recognizing that, when a Fed. R. Civ. P. 60(b) “motion actually s[eeks] permission to raise new and revised claims in a second or successive [habeas] petition,” a district court should “dismiss[]—not den[y]—the motion”).

Consistent with our decision in *United States v. Winestock*, 340 F.3d 200, 208 (4th Cir. 2003), we construe McDonald’s notice of appeal and informal brief as an application to file a second or successive § 2255 motion. Upon review, we conclude that McDonald’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.

Accordingly, we vacate the district court’s order and remand with instructions to dismiss McDonald’s motion for lack of subject matter 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.

VACATED AND REMANDED WITH INSTRUCTIONS

* A certificate of appealability is not required to review the district court’s order. *See Bixby v. Stirling*, 90 F.4th 140, 156-57 (4th Cir.), *cert. denied*, 145 S. Ct. 224 (2024); *United States v. McRae*, 793 F.3d 392, 400 (4th Cir. 2015).