

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 14, 2022

Lyle W. Cayce
Clerk

No. 21-10384

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DION CLARK,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CV-936

Before JONES, DUNCAN, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Dion Clark, federal prisoner # 55856-177, seeks a certificate of appealability (COA) to appeal the district court's partial denial of his 28 U.S.C. § 2255 motion challenging his convictions of conspiracy to commit interference with commerce by robbery and brandishing a firearm during and in relation to a crime of violence.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-10384

This court must examine the basis of its own jurisdiction, sua sponte, if necessary. *Trent v. Wade*, 776 F.3d 368, 387 (5th Cir. 2015). “An appeal may be taken to the court of appeals from the order entered on the [§ 2255] motion as from a final judgment on application for a writ of habeas corpus.” § 2255(d). Here, however, Clark’s appeal is premature as he filed it before the district court resentenced him. As such, we lack jurisdiction. *See Andrews v. United States*, 373 U.S. 334, 340 (1963).

Accordingly, a COA is DENIED and this matter is DISMISSED for lack of jurisdiction.