

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 09-2844

UNITED STATES OF AMERICA

v.

VICTOR ROJAS,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Crim. No. 2-06-cr-00555-001)
District Judge: Honorable Faith S. Hochberg

Submitted For Determination of Whether a Certificate of Appealability Should Issue and
Possible Summary Action Under Third Circuit LAR 27.4 and I.O.P. 10.6
August 20, 2009

Before: SLOVITER, FUENTES AND JORDAN, Circuit Judges

(Opinion filed: September 2, 2009)

OPINION

PER CURIAM

Victor Rojas appeals the District Court's denial of his motion filed pursuant to Fed. R. Civ. P. 60(b)(4). For the below reasons, we will summarily affirm the District Court's order.

In July 2006, Victor Rojas pleaded guilty to conspiring to distribute one kilogram or more of heroin. He was subsequently sentenced to 54 months in prison. In February 2009, Rojas filed his Rule 60(b) motion in which he argued that the criminal judgment against him was void because he was not indicted nor was an information filed within thirty days of his arrest. The District Court denied the motion, and Rojas filed a timely notice of appeal.

A motion pursuant to Rule 60(b) of the Federal Rules of Civil Procedure is not an appropriate vehicle for challenging a criminal conviction. Moreover, his motion is without merit. Rojas raised these same claims in a § 2255 motion filed in July 2007. The District Court denied the motion, and we denied a certificate of appealability. See No. 08-1910.

Summary action is appropriate if there is no substantial question presented in the appeal. See Third Circuit LAR 27.4. For the above reasons, we will summarily affirm the District Court's order. See Third Circuit I.O.P. 10.6.