

United States Court of Appeals For the First Circuit

No. 22-1969

DAVID STAVELEY,

Petitioner - Appellant,

v.

UNITED STATES,

Respondent - Appellee.

Before

Gelpí, Selya and Thompson,
Circuit Judges.

JUDGMENT

Entered: January 3, 2024

Defendant-appellant David A. Staveley filed a notice of appeal in the underlying 28 U.S.C. § 2255 proceeding, purporting to challenge an order "den[ying] a Certificate of Appealability" and a "judgment entered" December 2, 2022. After the appeal was opened, this court entered an order directing Staveley to show cause why this appeal should not be dismissed for lack of finality, where it did not appear that a final judgment had entered or that the appeal properly could proceed on an interlocutory basis. Staveley filed two supplements responding to the court's order to show cause, as well as two motions to appoint counsel and other motions.

As an initial matter, Staveley's requests for appointment of counsel is denied. See Bucci v. United States, 662 F.3d 18, 34 (1st Cir. 2011) ("[P]etitioners have no constitutional right to counsel in [habeas corpus] proceedings."). Having carefully considered Staveley's responses to the court's order to show cause and relevant portions of the record, we conclude that dismissal is in order. See generally 28 U.S.C. §§ 1291 & 1292 (statutory finality principles); see also Fabrica de Muebles J.J. Alvarez, Incorporado v. Inversiones Mendoza, Inc., 682 F.3d 26, 32 (1st Cir. 2012) ("The party asserting jurisdiction has the burden of demonstrating the existence of federal jurisdiction.").

Accordingly, the appeal is hereby dismissed. See 1st Cir. R. 27.0(c) (court may dismiss at any time when appellate jurisdiction is lacking). Any remaining pending motions, to the extent not mooted by the foregoing, are denied.

By the Court:

Maria R. Hamilton, Clerk

cc:

David Staveley

Lee H. Vilker

Terrence P. Donnelly

Lauren S. Zurier