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USA v. Acierno

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No: 06-4545

UNITED STATES OF AMERICA,

Appellee

v.

FRANK ACIERNO,

Appellant

Appeal from the United States District Court
for the District of Delaware
(03-CV-00020)
District Court: Hon. Sue L. Robinson

Submitted July 21, 2008
Pursuant to Third Circuit LAR 34.1(a)

Before: McKEE, FUENTES, JORDAN, Circuit Judges,

(Filed: August 22, 2008)

OPINION OF THE COURT

McKee, *Circuit Judge*.

Frank Acierno appeals the district court's September 27, 2006 order vacating a prior order terminating a consent decree. The September 27 order was entered pursuant to

Fed. R. Civ. P. 60(b). For the reasons that follow, we conclude that we do not have jurisdiction, and the appeal is dismissed.

“When an order granting a Rule 60(b) motion merely vacates the judgment and leaves the case pending for further determination, the order . . . is interlocutory and nonappealable.” *National Passenger Railroad Corp. v. Maylie*, 910 F.2d 1181, 1183 (3d Cir. 1990).