

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6725

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RAYMOND CHERISSON, a/k/a Haitian James,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. Terrence W. Boyle,
District Judge. (CR-94-97)

Submitted: November 22, 2005

Decided: December 2, 2005

Before MOTZ, TRAXLER, and GREGORY, Circuit Judges.

Remanded by unpublished per curiam opinion.

Raymond Cherisson, Appellant Pro Se. Christine Blaise Hamilton,
OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Raymond Cherisson seeks to appeal the district court's July 8, 2004, dismissal of his "Motion for habeas corpus relief based on newly reliable evidence and/or 60(b)(6)," which motion Cherisson filed on March 16, 2004. Cherisson filed his notice of appeal on April 18, 2005, over nine months after the district court's dismissal of the motion, together with a separate motion of the same date to file his notice of appeal out of time. As the district court has not ruled on Cherisson's April 18, 2005 motion to file an untimely appeal, this court is without jurisdiction at this juncture to review the dismissal of the Rule 60(b) motion. Accordingly, we remand this case to the district court for the limited purpose of ruling on Cherisson's motion to file an untimely appeal.

REMANDED