

UNPUBLISHED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: June 28, 2006

Decided: August 23, 2006

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Remanded by unpublished per curiam opinion.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Unpublished opinions are not binding precedent in this circuit.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 and/or Rule 60(b)," 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 had not ruled on Cherisson's motion to file an untimely appeal of the July 8, 2004 order dismissing his Fed. R. Civ. P. 60(b) motion, we remanded the case to the district court for action on the outstanding motion. The district court apparently believed that Cherisson was attempting to file an extension of time to appeal its April 8, 2005 order dismissing another motion Cherisson had filed, rather than the order identified by Cherisson in his motion and notice of appeal, and by this Court in our previous opinion. Accordingly, we again remand this case to the district court for the limited purpose of ruling on Cherisson's April 18, 2005 motion to file an untimely appeal from the July 8, 2004 order dismissing Cherisson's Rule 60(b) motion.

REMANDED