

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-7103**

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VERNON RIPLEY,

Petitioner - Appellant,

versus

DAVID ROBINSON, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (CA-04-280-1-GBL)

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Submitted: November 30, 2005

Decided: December 15, 2005

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Before MICHAEL and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Remanded by unpublished per curiam opinion.

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Vernon Ripley, Appellant Pro Se. Amy L. Marshall, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Vernon Ripley seeks to appeal the district court's order denying his motions filed pursuant to Fed. R. Civ. P. 59(e) and 60(b). The notice of appeal was received in the district court shortly after expiration of the appeal period. Under Fed. R. App. P. 4(c)(1) and Houston v. Lack, 487 U.S. 266 (1988), the notice is considered filed as of the date Ripley properly delivered it to prison officials for mailing to the court. The record does not reveal if or when Ripley complied with the requirements of Fed. R. App. P. 4(c)(1). Accordingly, we remand the case for the district court to obtain this information from the parties and to determine whether the filing was timely under Fed. R. App. P. 4(c)(1) and Houston v. Lack. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED