

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-7242

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARLON WILLIAMS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, Chief District Judge. (5:09-cr-00317-D-2; 5:12-cv-00027-D)

Submitted: December 19, 2014

Decided: January 14, 2015

Before MOTZ and KING, Circuit Judges, and DAVIS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Marlon Williams, Appellant Pro Se. Jane J. Jackson, Jennifer P. May-Parker, Assistant United States Attorneys, Seth Morgan Wood, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marlon Williams seeks to appeal the district court's order denying the Fed. R. Civ. P. 60(b)(6) motion that Williams filed in his 28 U.S.C. § 2255 (2012) proceeding. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

When the United States or its officer or agency is a party, the notice of appeal must be filed no more than sixty days after the entry of the district court's final judgment or order, Fed. R. App. P. 4(a)(1)(B), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 214 (2007).

The appealed-from order was entered on the district court's docket on June 9, 2014. The notice of appeal was filed on or around August 20, 2014.* Because Williams failed to file a

* The notice of appeal is not dated, and Williams did not include proof of mailing or a notarized statement of service. See Fed. R. App. P. 4(c)(1). However, the envelope in which the notice of appeal was mailed to the district court is postmarked August 22, 2014. Accordingly, for the purpose of this appeal, we assume that Williams tendered the notice of appeal to prison officials for mailing to the district court two days prior to the postmark date. Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266 (1988).

timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED