

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-6212

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARRYLE JERMAINE COOPER,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Thomas D. Schroeder, Chief District Judge. (1:13-cr-00010-TDS-1; 1:15-cv-00178-TDS-JLW)

Submitted: July 27, 2018

Decided: August 9, 2018

Before KEENAN and DIAZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Darryle Jermaine Cooper, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darryle Jermaine Cooper seeks to appeal the district court's order granting his motion to reopen his 28 U.S.C. § 2255 (2012) motion, vacating the judgment previously entered, and denying Cooper's § 2255 motion. When the United States or its officer or agency is a party, the notice of appeal must be filed no more than 60 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, Fed. R. App. P. 4(a)(5), or reopens the appeal period, 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 district court entered the judgment on November 3, 2017, the 60-day appeal period set by Fed. R. App. P. 4(a)(1)(B) expired on January 2, 2018, and the subsequent 30-day period to file a motion for an extension of time pursuant to Fed. R. App. P. 4(a)(5) expired on February 1, 2018. The notice of appeal that Cooper included in his March 1, 2018, motion to vacate judgment was dated November 8, 2017. Although there is no indication when this notice of appeal may have been placed in the institution's internal mail system and it does not include a declaration under 28 U.S.C. § 1746 (2012), a notarized statement, or statement that first class postage was prepaid, *see* Fed. R. App. P. 4(c)(1), out of an abundance of caution, we remand the case for the limited purpose of allowing the district court to determine whether there is evidence that Cooper placed the notice of appeal dated November 8, 2017, into the internal institutional mail system

before the expiration of the appeal period. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED