

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7395

JESSE ALMENDAREZ,

Petitioner - Appellant,

v.

UNITED STATES; ROBERT J. DODSON; ROBERT J. HIGDON, JR.,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. Richard E. Myers, II, Chief District Judge. (5:22-hc-02142-M-RJ)

Submitted: August 10, 2023

Decided: September 14, 2023

Before WILKINSON, WYNN, and BENJAMIN, Circuit Judges.

Remanded by unpublished per curiam opinion.

Jesse Almendarez, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jesse Almendarez seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2241 petition. The district court received the notice of appeal after the expiration of the appeal period. Because Almendarez is institutionalized, the notice of appeal is considered filed as of the date it was properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266 (1988). The record does not conclusively establish when Almendarez deposited the notice of appeal in the institution's internal mail system. Accordingly, we remand this case for the limited purpose of allowing the district court to make this finding and to determine whether Almendarez timely noted an appeal 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