

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6389

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

AHMAD SIMMION LINTON,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Benson Everett Legg, Chief District Judge. (1:98-cr-00258-BEL-2; 1:04-cv-02382-BEL)

Submitted: June 18, 2009

Decided: June 24, 2009

Before NIEMEYER, GREGORY, and DUNCAN, Circuit Judges.

Dismissed by unpublished by per curiam opinion.

Ahmad Simmion Linton, Appellant Pro Se. Robert Reeves Harding, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ahmad Simmion Linton seeks to appeal the district court's order denying his motion filed pursuant to 28 U.S.C.A. § 2255 (West Supp. 2009). We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

The time limits for noting an appeal in a civil case are set forth in Rule 4(a) of the Federal Rules of Appellate Procedure, which effectuates 28 U.S.C. § 2107 (2006). See Bowles v. Russell, 551 U.S. 205, _____, 127 S. Ct. 2360, 2363 (2007). 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). A failure to file a notice of appeal in accordance with § 2107 deprives the appellate court of jurisdiction. Bowles, 127 S. Ct. at 2366.

The district court's order was entered on the docket on June 29, 2005. The notice of appeal was filed on February 24, 2009.* Because Linton failed to file a timely

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to (Continued)

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 the court and argument would not aid the decisional process.

DISMISSED

the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266, 276 (1988).