

UNPUBLISHED

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

No. 17-7021

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WINSTON R. IRONS, a/k/a Tony,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Elkins. John Preston Bailey, District Judge. (2:12-cr-00016-JPB-RWT-1; 2:14-cv-00090-JPB-RWT)

Submitted: December 29, 2017

Decided: January 18, 2018

Before KING, AGEE, and FLOYD, Circuit Judges.

Remanded by unpublished per curiam opinion.

Winston R. Irons, Appellant Pro Se. Andrew R. Cogar, Assistant United States Attorney, Traci Michelle Cook, OFFICE OF THE UNITED STATES ATTORNEY, Clarksburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Winston R. Irons seeks to appeal the district court's order adopting the recommendation of the magistrate judge and denying relief on his 28 U.S.C. § 2255 (2012) motion. In a civil case in which the United States is a party, the notice of appeal must be filed within 60 days after entry of judgment. Fed. R. App. P. 4(a)(1)(B). "[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).

Because Irons is incarcerated, the notice of appeal is considered filed on 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, 267 (1988). The record does not conclusively reveal when Irons delivered the notice of appeal to prison officials for mailing. Accordingly, we remand the case for the limited purpose of allowing 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