

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6801

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTHONY PAUL VELASQUEZ,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Kenneth D. Bell, District Judge. (5:10-cr-00042-KDB-DSC-1; 5:16-cv-00093-KDB)

Submitted: November 18, 2020

Decided: December 14, 2020

Before NIEMEYER, AGEE, and HARRIS, Circuit Judges.

Remanded by unpublished per curiam opinion.

Anthony Paul Velasquez, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Anthony Paul Velasquez seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 motion. The order was entered on March 12, 2020, and Velasquez had 60 days to file his notice of appeal by giving it to prison authorities for mailing. *See* Fed. R. App. P. 4(a)(1)(B), (c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988). Although his notice of appeal was dated and received after the 60-day period, Velasquez claimed that he sent an earlier notice of appeal. However, he did not affirm the date of filing under penalty of perjury, and the record does not include any earlier notice of appeal or reveal when or if it was given to prison officials. Accordingly, we remand this case for the limited purpose of allowing the district court to obtain this information and determine whether the notice of appeal was timely filed under Rule 4(c)(1) and *Houston v. Lack*. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED