

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7848

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RONALD E. WALKER,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Joseph Robert Goodwin, District Judge. (2:01-cr-00103; 2:03-2193)

Submitted: May 23, 2007

Decided: July 10, 2007

Before WILLIAMS, Chief Judge, and NIEMEYER and GREGORY, Circuit Judges.

Remanded by unpublished per curiam opinion.

Ronald E. Walker, Appellant Pro Se. Stephanie Lou Haines, OFFICE OF THE UNITED STATES ATTORNEY, Huntington, West Virginia; Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Samuel David Marsh, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ronald E. Walker seeks to appeal the district court's order denying his 28 U.S.C. § 2255 (2000) motion. The notice of appeal was received in the district court shortly after expiration of the appeal period. Because Walker is incarcerated, the notice 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 reveal when Walker gave 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