

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7264

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

PATRICK LAMAR HARRIS,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. C. Weston Houck, Senior District Judge. (4:94-cr-00297-CWH-6; 4:07-cv-70075-CWH)

Submitted: December 16, 2008

Decided: December 30, 2008

Before NIEMEYER and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Patrick Lamar Harris, Appellant Pro Se. Marshall Prince II, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Patrick Lamar Harris seeks to appeal the district court's orders denying his motion filed under 28 U.S.C. § 2255 (2000) and for reconsideration. The notice of appeal was received in the district court after expiration of the appeal period. Because Harris 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 Harris 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