

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7636

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TROY LAMONT MURPHY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Elizabeth City. Louise W. Flanagan, District Judge. (5:04-cr-00241-FL-2; 5:12-cv-00332-FL)

Submitted: January 17, 2013

Decided: January 23, 2013

Before GREGORY, SHEDD, and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Troy Lamont Murphy, Appellant Pro Se. Edward D. Gray, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Troy Lamont Murphy seeks to appeal the district court's order dismissing his 28 U.S.C.A. § 2255 (West Supp. 2012) motion. We dismiss his appeal for lack of jurisdiction because the notice of appeal was not timely filed. Parties in civil cases such as this one are accorded sixty days after the entry of the district court's final judgment or order to note an appeal, 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). "[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).

The district court's order dismissing Murphy's suit was entered on the docket on July 13, 2012. The notice of appeal was filed, at earliest, on September 18, 2012 – seven days late.* Murphy filed no motion tolling the applicable time period under Fed. R. App. P. 4(a)(4) or (5). We therefore lack jurisdiction to consider Murphy's claims.

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

Accordingly, we dismiss Murphy's appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED