

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-7547

JAMES C. PLATTS,

Petitioner - Appellant,

v.

TERRY O'BRIEN, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. Irene M. Keeley, District Judge. (1:13-cv-00257-IMK-RWT)

Submitted: June 16, 2015

Decided: July 6, 2015

Before DUNCAN and DIAZ, Circuit Judges, and DAVIS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

James C. Platts, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James C. Platts, a federal prisoner, seeks to appeal the district court's order adopting the magistrate judge's amended recommendation and denying relief on Platts' 28 U.S.C. § 2241 (2012) petition. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

When the United States or its officer or agency is a party, the notice of appeal must be filed no more than 60 days after the entry of the district court's final judgment or order, 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 was entered on the docket on June 26, 2014. The notice of appeal was filed on September 2, 2014, at the earliest.* Because Platts failed to file a timely

* We previously remanded this case to the district court for further factual development on the limited question of whether Platts timely filed his notice of appeal under Fed. R. App. P. 4(c)(1) and Houston v. Lack, 487 U.S. 266, 276 (1988). Platts insisted that he delivered the notice of appeal to prison officials for mailing to the court on July 7, 2014. Platts, however, presented no documentary evidence of this filing to the district court. Accordingly, the district court concluded that Platts delivered his notice of appeal to prison officials for mailing to the court no earlier than September 2, 2014, the day before it was postmarked.

notice of appeal or to obtain an extension or reopening of the appeal period, we deny leave to proceed in forma pauperis and dismiss the 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