

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6121

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CESAR SIERRO-PINEDA, a/k/a Desiderio Ramirez Duarte, a/k/a
Desiderio Pineda Duarte,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Statesville. Richard L.
Voorhees, District Judge. (5:11-cr-00022-RLV-1; 5:14-cv-00063-
RLV)

Submitted: June 18, 2015

Decided: June 22, 2015

Before SHEDD, DUNCAN, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Cesar Sierro-Pineda, Appellant Pro Se. Amy Elizabeth Ray,
Assistant United States Attorney, Asheville, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cesar Sierro-Pineda seeks to appeal the district court's order denying his 28 U.S.C. § 2255 (2012) motion. 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 October 14, 2014. The notice of appeal was filed on January 16, 2015.* Because Sierro-Pineda failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We grant Sierro-Pineda's motion

* 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). Although Sierro-Pineda first dated his notice of appeal December 14, 2014, he changed the date to January 16, 2015, and initialed the change. Under either date, the notice of appeal is untimely filed.

to extend the filing time for the informal opening brief and accept the tendered brief. 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