

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6191

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHAWNA MICHELLE HOLMES,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. R. Bryan Harwell, District Judge. (4:11-cr-02077-RBH-1; 4:13-cv-02846-RBH)

Submitted: June 25, 2015

Decided: June 29, 2015

Before GREGORY, FLOYD, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Shawna Michelle Holmes, Appellant Pro Se. Robert Frank Daley, Jr., Stanley D. Ragsdale, Assistant United States Attorneys, Columbia, South Carolina; William E. Day, II, Assistant United States Attorney, Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Shawna Michelle Holmes seeks to appeal the district court's order denying relief on her 28 U.S.C. § 2255 (2012) motion to vacate, set aside, or correct her sentence. 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 December 1, 2014, and a second copy thereof was mailed to Holmes at her new address on December 4, 2014. Thus, the 60-day appeal period expired, at the latest, on February 2, 2015. Holmes' notice of appeal was filed, at the earliest, on February 4, 2015.* Because Holmes failed to file a timely notice of appeal or to obtain an

* The notice of appeal in this case is not dated, but bears a postmark of February 5, 2015. For the purpose of this appeal, we assume that Holmes tendered her notice of appeal to prison officials for mailing to the court the day prior to the postmark date. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

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