

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6333

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HAROLD EUGENE PATTON,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Martin K. Reidinger, District Judge. (1:07-cr-00033-MR-DLH-9; 1:11-cv-00331-MR)

Submitted: August 20, 2015

Decided: August 24, 2015

Before DUNCAN, KEENAN, and WYNN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Harold Eugene Patton, Appellant Pro Se. William Michael Miller, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Harold Eugene Patton seeks to appeal the district court's order denying relief on 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 August 6, 2014. The notice of appeal was filed on February 28, 2015.¹ Because Patton failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal.² We dispense with oral argument because the

¹ Because Patton is incarcerated, the notice is considered filed on the date it was properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

² In his informal brief, Patton states that he also seeks to appeal the district court's subsequent order construing his motion to reopen his case as a successive § 2255 motion and (Continued)

facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

dismissing it on that basis. We likewise dismiss the appeal as to that order as untimely filed.