

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7638

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANIEL JUNIOR MCNEIL,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., Chief District Judge. (1:10-cr-00406-WO-1; 1:13-cv-00718-WO-LPA)

Submitted: January 10, 2017

Decided: January 19, 2017

Before GREGORY, Chief Judge, DUNCAN, Circuit Judge, and DAVIS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Daniel Junior McNeil, Appellant Pro Se. Lisa Blue Boggs, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel Junior McNeil 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, as here, 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 11, 2015. The district court found on limited remand from this court that the notice of appeal was not timely filed under Fed. R. App. P. 4(c)(1). We review this factual finding for clear error, see Ray v. Clements, 700 F.3d 993, 1012 (7th Cir. 2012), and we discern no such error. Thus, the notice of appeal was filed on October 16, 2015, beyond the appeal period. Because McNeil failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we 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