UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7990

MARION LAMONT SHERROD,

Plaintiff - Appellant,

v.

LAWRENCE PARSONS; JEFFREY WALL; KIERNAN SHANAHAN; K. GOODWIN, Correctional Officer,

Defendants - Appellees.

No. 16-7415

MARION LAMONT SHERROD,

Plaintiff - Appellant,

v.

LAWRENCE PARSONS; JEFFREY WALL; KIERNAN SHANAHAN; K. GOODWIN, Correctional Officer,

Defendants - Appellees.

Appeals from the United States District Court for the Western District of North Carolina, at Charlotte. Frank D. Whitney, Chief District Judge. (3:15-cv-00068-FDW)

Submitted: March 7, 2017 Decided: March 10, 2017

Before SHEDD, DIAZ, and HARRIS, Circuit Judges.

No. 15-7990 dismissed, No. 16-7415 affirmed, by unpublished per curiam opinion.

Marion L. Sherrod, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In Appeal No. 15-7990, Marion Lamont Sherrod seeks to appeal the district court's orders, filed on June 1 and June 22, 2015, dismissing his 42 U.S.C. § 1983 (2012) action and denying his motion to reconsider. We remanded the case to the district court for a determination of whether Sherrod's notice of appeal was timely filed with prison officials, as the record before us did not conclusively reveal when Sherrod delivered the notice of appeal to prison officials for mailing. See Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266 (1988). On remand the district court, by order of October 3, 2016, made several specific factual findings and concluded that Sherrod did not timely file his notice of appeal. Sherrod appeals from the district court's October 3 order in Appeal No. 16-7415, which has been consolidated with Appeal No. 15-7990.

Parties are accorded 30 days after entry of the district court's judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), with a few exceptions not relevant here. "[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 original orders were entered on the docket on June 1 and June 22, 2015. The district court found on remand, after receiving submissions from Sherrod and the North Carolina Department of Public Safety, that Sherrod did

not file a timely notice of appeal within the designated time period and in accordance with Fed. R. App. P. 4(c)(1).

We review the district court's factual findings for clear error. Fed. R. Civ. P. 52(a)(6); see Ray v. Clements, 700 F.3d 993, 1012 (7th Cir. 2012) (applying clear error review to district court's factual findings in prison mailbox rule determination). A finding is "clearly erroneous" when the reviewing court "is left with the definite and firm conviction that a mistake has been committed." Anderson v. City of Bessemer City, 470 U.S. 564, 573 (1985) (internal quotation marks omitted). Because we perceive no clear error in the district court findings, we affirm the district court's October 3, 2016, order in No. 16-7415, and we must dismiss Sherrod's untimely appeal in No. 15-7990 for lack of jurisdiction. 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 in the decisional process.

NO. 15-7990, DISMISSED;
NO. 16-7415, AFFIRMED