

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6224

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEITH A. DAVIS, a/k/a Black,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Margaret B. Seymour, Senior District Judge. (3:11-cr-00512-MBS-1; 3:13-cv-02591-MBS)

Submitted: April 19, 2016

Decided: April 22, 2016

Before AGEE, DIAZ, and THACKER, Circuit Judges.

Affirmed in part and dismissed in part by unpublished per curiam opinion.

Keith A. Davis, Appellant Pro Se. John David Rowell, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Keith A. Davis seeks to appeal the district court's order denying his Fed. R. Civ. P. 59(e) motion for reconsideration of the dismissal of his 28 U.S.C. § 2255 (2012) motion. He also appeals the district court's order denying his Fed. R. Civ. P. 52(b) motion for amended findings and his motion to amend the Rule 52(b) motion. We dismiss the appeal for lack of jurisdiction in part and affirm in part.

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 denying Davis' Rule 59(e) motion was entered on the docket on August 26, 2015. The notice of appeal was filed on February 8, 2016.* Because Davis failed to file a timely notice of appeal or to obtain an extension or

*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).

reopening of the appeal period, we dismiss his appeal of that order.

Davis' appeal is timely as to the district court's order denying his motion for amended findings and motion to amend. However, the motions were themselves untimely because Davis did not file them in the district court within 28 days of the entry of judgment on his § 2255 motion. See Fed. R. Civ. P. 52(b). We therefore affirm the district court's denial of these motions. 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.

AFFIRMED IN PART;
DISMISSED IN PART