

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6067

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ISRAEL ERNESTO PALACIOS, a/k/a Homie,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Deborah K. Chasanow, Senior District Judge. (8:05-cr-00393-DKC-14; 8:13-cv-02949-
DKC)

Submitted: May 24, 2018

Decided: May 30, 2018

Before NIEMEYER, MOTZ, and FLOYD, Circuit Judges.

Remanded by unpublished per curiam opinion.

Israel Ernesto Palacios, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Israel Ernesto Palacios seeks to appeal the district court's order denying his 28 U.S.C. § 2255 (2012) motion. 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 March 30, 2017. Palacios certified under the penalty of perjury that he placed the notice of appeal in the mail with sufficient postage on April 5, 2017, within the 60-day appeal period. The envelope, however, was date-stamped on July 20, 2017, well after the expiration of the appeal period. Both a litigant's certification and evidence such as a date stamp may be used to determine the timeliness of a prisoner's notice of appeal. *See* Fed. R. App. P. 4(c)(1)(A); *Houston v. Lack*, 487 U.S. 266, 276 (1988) (establishing prison mailbox rule). Because there is conflicting evidence and the span between the two relevant dates is significant, we remand this case to the district court for the limited purpose of determining when Palacios delivered his notice of appeal to prison officials for mailing to the court. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED