

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6216

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FRED CARRASCO, JR., a/k/a Aaron Bryant,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina,
at Charlotte. Robert J. Conrad, Jr., District Judge. (3:13-cr-00199-RJC-1; 3:16-cv-
00298-RJC)

Submitted: August 30, 2018

Decided: October 5, 2018

Before WILKINSON, AGEE, and HARRIS, Circuit Judges.

Remanded by unpublished per curiam opinion.

Fred Carrasco, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Fred Carrasco, Jr., seeks to appeal the district court's October 13, 2016 order denying relief on his 28 U.S.C. § 2255 (2012) motion. Although the docketed notice of appeal was received after the expiration of the appeal period, Carrasco asserts that he previously delivered his original notice of appeal to prison officials for mailing on December 8, 2016—within the 60-day appeal period. Fed. R. App. P. 4(a)(1)(B). Because Carrasco is incarcerated, the notice is considered filed as of the date it was properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266 (1988). The record does not conclusively establish that Carrasco in fact provided a notice of appeal to prison officials for mailing on December 8, 2016. Accordingly, we remand the case for the limited purpose of allowing the district court to make this finding and to determine whether Carrasco timely noted an appeal under Fed. R. App. P. 4(c)(1) and *Houston v. Lack*. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED