

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-6276

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE LORENZO SARAVIA,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Liam O'Grady, Senior District Judge. (1:12-cr-00255-LO-7; 1:18-cv-00552-LO)

Submitted: May 19, 2020

Decided: May 22, 2020

Before NIEMEYER, HARRIS, and RICHARDSON, Circuit Judges.

Remanded by unpublished per curiam opinion.

Jose Lorenzo Saravia, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jose Lorenzo Saravia seeks to appeal the district court's order denying as untimely his 28 U.S.C. § 2255 (2018) motion. The district court entered its order on May 29, 2019. However, because the court did not set out its judgment in a separate document, the appeal period did not begin to run until 152 days later, on Monday, October 28, 2019. Fed. R. Civ. P. 58(a), (c)(2)(B); Fed. R. App. P. 4(a)(7)(a)(ii), 26(a)(1)(C); *see Hughes v. Halifax Cty. Sch. Bd.*, 823 F.2d 832, 834-35 (4th Cir. 1987). Saravia filed a pro se motion requesting to file a Notice of Appeal based on the claim that he was never notified of the court's May 2019 decision. That motion was dated February 6, 2020,* which was within the 180-day window for reopening the appeal period. *See* Fed. R. App. P. 4(a)(6). We remand to the district court for the limited purpose of determining whether Saravia is entitled to a reopening of the appeal period. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED

* For the purpose of this appeal, we assume that the date appearing on the motion is the earliest date Saravia could have delivered the motion to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988).