

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**No. 20-6724**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DESHAWN MARCUS KING,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, Chief District Judge. (5:13-cr-00296-BO-2; 5:17-cv-00039-BO)

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Submitted: August 25, 2020

Decided: August 28, 2020

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Before KING and AGEE, Circuit Judges, and SHEDD, Senior Circuit Judge.

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Remanded by unpublished per curiam opinion.

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Deshawn Marcus King, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Deshawn Marcus King seeks to appeal the district court's March 6, 2020, order denying relief on his 28 U.S.C. § 2255 motion. When the United States or its officer or agency is a party in a civil case, 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).

Because King 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 King provided a notice of appeal to prison officials for mailing on or before May 5, 2020. Accordingly, we remand the case for the limited purpose of allowing the district court to make this finding and to determine whether King timely noted an appeal under Rule 4(c)(1) and *Houston*. The record, as supplemented, will then be returned to this court for further consideration.

*REMANDED*