

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-298-RJC
(3:13-cr-199-RJC-1)**

FRED CARRASCO, JR.,)	
)	
Petitioner,)	
)	
vs.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
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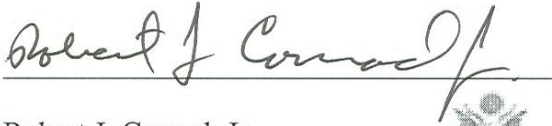
THIS MATTER comes before the Court on limited remand from the Fourth Circuit Court of Appeals directing this Court to determine whether Petitioner’s appeal was timely filed. (Doc. No. 17).

The Court notes that, in an order dated January 8, 2018, this Court has already held that Petitioner’s appeal was untimely. (Doc. No. 11). That is, although Petitioner contends that he delivered his original Notice of Appeal to prison officials for mailing on December 8, 2016, which was within the 60-day appeal period, this Court never received that document, and that is noted in the Court’s order dated January 8, 2018.¹ This Court also held in the order of January 8, 2018, that Petitioner failed to meet the requirements for reopening the time to file an appeal pursuant to Federal Rule of Appellate Procedure 4(a)(6).

¹ Since this Court never received Petitioner’s Notice of Appeal, this Court’s record therefore contains nothing to indicate whether Petitioner gave the Notice of Appeal to prison officials on December 8, 2016. As the Court discussed in its January 8, 2018, order, the first filing by Petitioner in this Court following the denial of his motion to vacate on October 13, 2016, was a motion for relief from judgment, filed on April 12, 2017, which this Court construed as a motion to file an untimely appeal.

The Clerk of this Court is therefore instructed to mail to the Fourth Circuit Court of Appeals this Court's prior order, Doc. # 11.

Signed: October 26, 2018

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

