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UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

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December 2, 2005

Clerk, U. S. District Court
Eastern District of North Carolina at Raleigh
Room 448
Federal Building
310 New Bern Avenue
Raleigh, NC 27601Re: 05-6725 US v. Cherisson
CR-94-97

Dear Clerk:

Enclosed is an opinion of this Court remanding the case for limited purpose. The record on appeal is being returned for the district court's use. Please return the record, as supplemented, to this Court after completing the determination on remand.

Yours truly,

PATRICIA S. CONNOR
Clerk/s/ Shirley J. Beasley
By: _____
Deputy Clerkcc: Christine Blaise Hamilton
Raymond Cherisson

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6725

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RAYMOND CHERISSON, a/k/a Haitian James,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (CR-94-97)

Submitted: November 22, 2005

Decided: December 2, 2005

Before MOTZ, TRAXLER, and GREGORY, Circuit Judges.

Remanded by unpublished per curiam opinion.

Raymond Cherisson, Appellant Pro Se. Christine Blaise Hamilton, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Raymond Cherisson seeks to appeal the district court's July 8, 2004, dismissal of his "Motion for habeas corpus relief based on newly reliable evidence and/or 60(b)(6)," which motion Cherisson filed on March 16, 2004. Cherisson filed his notice of appeal on April 18, 2005, over nine months after the district court's dismissal of the motion, together with a separate motion of the same date to file his notice of appeal out of time. As the district court has not ruled on Cherisson's April 18, 2005 motion to file an untimely appeal, this court is without jurisdiction at this juncture to review the dismissal of the Rule 60(b) motion. Accordingly, we remand this case to the district court for the limited purpose of ruling on Cherisson's motion to file an untimely appeal.

REMANDED