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UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

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December 15, 2005

Elizabeth H. Paret
Eastern District of Virginia at Alexandria
401 Courthouse Square
Alexandria, VA 22314Re: 05-7103 Ripley v. Robinson
CA-04-280-1-GBL

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: Vernon Ripley
Amy L. Marshall

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7103

VERNON RIPLEY,

Petitioner - Appellant,

versus

DAVID ROBINSON, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Gerald Bruce Lee, District Judge. (CA-04-280-1-GBL)

Submitted: November 30, 2005

Decided: December 15, 2005

Before MICHAEL and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Vernon Ripley, Appellant Pro Se. Amy L. Marshall, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Vernon Ripley seeks to appeal the district court's order denying his motions filed pursuant to Fed. R. Civ. P. 59(e) and 60(b). The notice of appeal was received in the district court shortly after expiration of the appeal period. Under Fed. R. App. P. 4(c)(1) and Houston v. Lack, 487 U.S. 266 (1988), the notice is considered filed as of the date Ripley properly delivered it to prison officials for mailing to the court. The record does not reveal if or when Ripley complied with the requirements of Fed. R. App. P. 4(c)(1). Accordingly, we remand the case for the district court to obtain this information from the parties and to determine whether the filing was timely 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