

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6176

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOEY FRANKLIN PHILLIPS, a/k/a Joe Phillips,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of Virginia, at Abingdon. James P. Jones, District
Judge. (1:07-cr-00019-JPJ-MFU; 1:08-cv-80121-JPJ-MFU)

Submitted: March 31, 2011

Decided: April 5, 2011

Before NIEMEYER, SHEDD, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joey Franklin Phillips, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joey Franklin Phillips seeks to appeal the district court's order denying relief on his 28 U.S.C.A. § 2255 (West Supp. 2010) motion. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

When the United States or its officer or agency is a party, the notice of appeal must be filed no more than sixty 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).

The district court's order was entered on the docket on October 22, 2009. The notice of appeal was filed on January 22, 2010. Because Phillips failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED