UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6393

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KIRT R. KING, a/k/a Birdman, a/k/a Kirk King,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Parkersburg. Joseph R. Goodwin, Chief District Judge. (6:04-cr-00127; 6:08-cv-01260)

Submitted: June 24, 2010 Decided: July 1, 2010

Before DUNCAN, AGEE, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Kirt R. King, Appellant Pro Se. Richard Gregory McVey, Assistant United States Attorney, Huntington, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

PER CURIAM:

Kirt R. King seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge 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 December 10, 2009. The notice of appeal was filed on March 11, 2010.[*] Because King failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the

[*] For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED