

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-7705

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES LARRY BELLAMY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, Senior District Judge. (7:99-cr-00049-F-2; 7:03-cv-00015-F)

Submitted: March 31, 2011

Decided: April 6, 2011

Before NIEMEYER, SHEDD, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

James Larry Bellamy, Appellant Pro Se. John Samuel Bowler, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Larry Bellamy 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 to note an appeal, 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 August 10, 2010. The notice of appeal was filed on December 3, 2010.* Because Bellamy 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 facts and legal contentions are adequately presented

* 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 deposited in the institution's internal mail system for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988)

in the materials before the court and argument would not aid the decisional process.

DISMISSED