UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7018

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARK BENJAMIN HEMPHILL,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Cameron McGowan Currie, District Judge. (0:99-cr-00659-CMC-6; 0:12-cv-03120-CMC)

Submitted: October 22, 2013 Decided: October 25, 2013

Before WILKINSON, NIEMEYER, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Mark Benjamin Hemphill, Appellant Pro Se. Marshall Prince, II, Assistant United States Attorney, Nancy Chastain Wicker, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

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PER CURIAM:

Mark Benjamin Hemphill seeks to appeal the district court's order construing his 28 U.S.C.A. § 2241 (West 2006 & Supp. 2013) petition as a 28 U.S.C.A. § 2255 (West Supp. 2013) motion and dismissing it without prejudice as successive and unauthorized. 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 February 13, 2013. The notice of appeal was filed on June 5, 2013.[*] Because Hemphill failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we

[*]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. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED