

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6086

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEANTE DRAKE, a/k/a Panama, a/k/a Shawn, a/k/a Papa Bear,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. Irene M. Keeley, District Judge. (1:07-cr-00053-IMK-MJA-1; 1:16-cv-00037-IMK)

Submitted: May 9, 2017

Decided: May 19, 2017

Before KING, SHEDD, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Deante Drake, Appellant Pro Se. Randolph John Bernard, OFFICE OF THE UNITED STATES ATTORNEY, Wheeling, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Deante Drake seeks to appeal the district court's order denying relief on his motion construed as a 28 U.S.C. § 2255 (2012) 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 60 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 August 3, 2016. The notice of appeal was filed, at the earliest, on January 18, 2017.* Because Drake failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We deny Drake's motions for clarification and for collateral review. 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

* A pro se prisoner's notice of appeal is considered filed at the moment it is delivered to prison authorities for mailing to the court. Fed. R. App. P. 4(c); *Houston v. Lack*, 487 U.S. 266, 276 (1988). Drake dated his notice of appeal January 17, 2017.