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UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

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July 10, 2007

Clerk, U. S. District Court
Southern District of West Virginia at Charleston
Room 2400
300 Virginia Street, East
Charleston, WV 25301

Re: 06-7848 US v. Walker
2:01-cr-00103
2:03-2193

Dear Clerk:

Enclosed is an opinion of this Court remanding the case for limited purpose. The record on appeal is being returned for the district court's use. Please return the record, as supplemented, to this Court after completing the determination on remand.

Yours truly,

PATRICIA S. CONNOR
Clerk

/s/ Pamela K. Stump
By: _____
Deputy Clerk

cc: Ronald E. Walker
Michael Lee Keller
Samuel David Marsh
Stephanie Lou Haines

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7848

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RONALD E. WALKER,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Joseph Robert Goodwin, District Judge. (2:01-cr-00103; 2:03-2193)

Submitted: May 23, 2007

Decided: July 10, 2007

Before WILLIAMS, Chief Judge, and NIEMEYER and GREGORY, Circuit Judges.

Remanded by unpublished per curiam opinion.

Ronald E. Walker, Appellant Pro Se. Stephanie Lou Haines, OFFICE OF THE UNITED STATES ATTORNEY, Huntington, West Virginia; Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Samuel David Marsh, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ronald E. Walker seeks to appeal the district court's order denying his 28 U.S.C. § 2255 (2000) motion. The notice of appeal was received in the district court shortly after expiration of the appeal period. Because Walker is incarcerated, the notice is considered filed as of the date it was properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266 (1988). The record does not reveal when Walker gave the notice of appeal to prison officials for mailing. Accordingly, we remand the case for the limited purpose of allowing the district court to obtain this information from the parties and to determine whether the filing was timely under Fed. R. App. P. 4(c)(1) and Houston v. Lack. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED