

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6702

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHARLES RICE, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Jerome B. Friedman, Senior District Judge. (2:05-cv-00207-JBF-JEB; 2:99-cr-00136-JBF-1)

Submitted: August 18, 2011 Decided: August 23, 2011

Before WILKINSON, DAVIS, and KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Charles Rice, Jr., Appellant Pro Se. Kevin Michael Comstock, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles Rice, Jr., seeks to appeal the district court's order dismissing his motion "to reconsider, rehear, [or] readjust" his previously imposed term of imprisonment and/or motion to reconsider the district court's denial of his 28 U.S.C.A. § 2255 (West Supp. 2011) 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 February 14, 2011. The notice of appeal was filed on May 18, 2011.* Because Rice failed to file a timely notice of appeal or

* 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).

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

DISMISSED