

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 14-7333**

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HERMENEGILDO RICO MARTINEZ,

Petitioner - Appellant,

v.

SUPERINTENDENT L.C.I. SANDY THOMAS; THEODIS BECK,

Respondents - Appellees.

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Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Graham C. Mullen, Senior District Judge. (1:08-cv-00177-GCM)

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Submitted: January 15, 2015

Decided: January 21, 2015

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Before WILKINSON and NIEMEYER, Circuit Judges, and DAVIS, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Hermenegildo Rico Martinez, Appellant Pro Se. Mary Carla Babb, Assistant Attorney General, Raleigh, North Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Hermenegildo Rico Martinez seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 petition as untimely. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), 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 June 19, 2008. The notice of appeal was filed on September 2, 2014.\* Because Martinez failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny leave to proceed in forma pauperis and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials

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\* 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, 276 (1988).

before this court and argument would not aid the decisional process.

DISMISSED