

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7568

BARUCHYAH BEDEYAH HAWKINS, a/k/a Daughton W. Lacey, Jr.,

Petitioner - Appellant,

v.

HAROLD CLARKE, Director, V.D.O.C.,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Jackson L. Kiser, Senior District Judge. (7:15-cv-00382-JLK-RSB)

Submitted: March 31, 2016

Decided: April 13, 2016

Before SHEDD, DUNCAN, and THACKER, Circuit Judges.

Remanded by unpublished per curiam opinion.

Baruchyah Bedeyah Hawkins, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Baruchyah Bedeyah Hawkins seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2254 (2012) petition. His notice of appeal and objections to the district court's dismissal were received in the district court shortly after expiration of the appeal period. Because Hawkins is incarcerated, the notice of appeal and objections are considered filed as of the date they were properly delivered to prison officials for mailing to the court. See Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266, 276 (1988). The record does not conclusively reveal when Hawkins delivered the notice of appeal or the objections to prison officials for mailing.

Accordingly, we remand the case for the limited purpose of allowing the district court to determine when the notice of appeal and the objections were filed, and to take further action as necessary regarding the objections should the district court find they were handed to prison officials for mailing within 28 days of the dismissal order, see Fed. R. Civ. P. 59(e). The record, as supplemented, will then be returned to this court for further consideration.

REMANDED