

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 16-7073**

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BURNICE ANTWON HINNANT, JR.,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, District Judge. (5:15-hc-02283-FL)

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Submitted: December 15, 2016

Decided: December 20, 2016

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Before SHEDD, DUNCAN, and AGEE, Circuit Judges.

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Remanded by unpublished per curiam opinion.

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Burnice Antwon Hinnant, Jr., Appellant Pro Se. Clarence Joe DelForge, III, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Burnice Antwon Hinnant, Jr., seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2012) petition. The notice of appeal was received in the district court shortly after expiration of the appeal period. Because Hinnant 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 Hinnant 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