

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 19-7454**

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RICHEY L. BOYD,

Petitioner - Appellant,

v.

WARDEN, PERRY CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

STATE OF SOUTH CAROLINA,

Respondent.

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Appeal from the United States District Court for the District of South Carolina, at Orangeburg. Bruce H. Hendricks, District Judge. (5:18-cv-01582-BHH)

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Submitted: October 28, 2020

Decided: December 15, 2020

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Before AGEE, HARRIS, and QUATTLEBAUM, Circuit Judges.

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Remanded by unpublished per curiam opinion.

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Richey L. Boyd, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Richey L. Boyd seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 petition. The district court received the notice of appeal shortly after expiration of the appeal period. Because Boyd is incarcerated, the notice is considered filed as of the date it was delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988). The record does not conclusively reveal when Boyd gave the notice of appeal to prison officials for mailing. Accordingly, we remand this case for the limited purpose of determining the timeliness of the filing under Rule 4(c)(1) and *Houston*. The record, as supplemented, will then be returned to this court for further consideration.

*REMANDED*