

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7454

RICHEY L. BOYD,

Petitioner - Appellant,

v.

WARDEN, PERRY CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

STATE OF SOUTH CAROLINA,

Respondent.

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)

Submitted: July 14, 2022

Decided: August 12, 2022

Before AGEE, HARRIS, and QAUTTLEBAUM, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Richey L. Boyd, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Richey L. Boyd seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying his 28 U.S.C. § 2254 petition. We previously remanded this case to the district court for the limited purpose of determining when Boyd filed his notice of appeal. On remand, the district court found that Boyd filed his notice of appeal after the appeal period expired. Because the district court's finding is not clearly erroneous, we dismiss this appeal for lack of jurisdiction.

In civil cases, parties have 30 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 dismissal order was entered on the docket on August 26, 2019. Consequently, Boyd had until September 25, 2019, to note a timely appeal. *See* Fed. R. App. P. 26(a)(1)(C). On remand, the district court found that Boyd failed to show when he gave his notice of appeal to prison officials. Thus, the notice of appeal was filed, at the earliest, on October 2, 2019, the day it was stamped as received by his institution's mailroom. *See* Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988).

Upon reviewing the record, we are satisfied that the district court's finding is not clearly erroneous. *See Ray v. Clements*, 700 F.3d 993, 1012 (7th Cir. 2012) (reviewing for clear error district court's finding as to when inmate delivered document to prison officials for mailing); *cf. United States v. Cohen*, 888 F.3d 667, 678 (4th Cir. 2018) (“As a general

proposition, we review a district court's . . . factual findings for clear error.”). Because Boyd filed his notice of appeal after the appeal period expired and he did not obtain an extension or reopening of the appeal period, we dismiss the appeal for lack of jurisdiction.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED