

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-6908

KEVIN GILLIARD,

Petitioner - Appellant,

v.

WARDEN JOYNER,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Sherri A. Lydon, District Judge. (6:18-cv-02417-SAL)

Submitted: November 19, 2020

Decided: November 24, 2020

Before WILKINSON, KING, and QUATTLEBAUM, Circuit Judges.

Remanded by unpublished per curiam opinion.

Kevin Gilliard, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kevin Gilliard seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 petition. In a civil case, the notice of appeal must be filed no more than 30 days after the entry of the district court's final judgment or order, 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 entered its order dismissing Gilliard's § 2254 petition on May 6, 2020, thereby affording Gilliard until June 6, 2020, to file a notice of appeal. Gilliard filed a document entitled "Notice of Appeal" dated June 11, 2020, requesting permission to file an appeal and submitting reasons for why his appeal should be granted. Because Gilliard's June 11, 2020, filing requested permission to file an appeal, presented an excuse for the untimeliness of his appeal, and the filing was dated during the 30-day excusable neglect period, we construe the filing as a timely request for an extension of the appeal period. *See* Fed. R. App. P. 4(a)(5). Accordingly, we remand this case to the district court for the limited purpose of determining whether Gilliard has demonstrated excusable neglect. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED