

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7721

MARCUS JERRELL PARKER,

Petitioner - Appellant,

versus

STAN BURTT, Warden; HENRY MCMASTER, Attorney
General,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. Joseph F. Anderson, Jr., Chief
District Judge. (6:05-cv-00359-JFA)

Submitted: November 15, 2006

Decided: November 27, 2006

Before WIDENER, WILKINSON, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Marcus Jerrell Parker, Appellant Pro Se. Donald John Zelenka,
Melody Jane Brown, OFFICE OF THE ATTORNEY GENERAL OF SOUTH
CAROLINA, Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Marcus Jerrell Parker seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2000) petition. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty 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). This appeal period is "mandatory and jurisdictional." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on September 1, 2006. The notice of appeal was filed on October 3, 2006.* Because Parker failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We further dismiss Parker's motion for a certificate of appealability as moot. We dispense with oral argument because the facts and legal contentions are adequately

*For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

presented in the materials before the court and argument would not aid the decisional process.

DISMISSED