

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6724

SAMUEL TEMONEY,

Petitioner - Appellant,

versus

JOHNNY SAPP; HENRY MCMASTER, Attorney General
for South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. Cameron McGowan Currie, District
Judge. (0:06-cv-01983-CMC)

Submitted: September 11, 2007 Decided: September 17, 2007

Before WILKINSON, MOTZ, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Samuel Temoney, Appellant Pro Se. Donald John Zelenka, OFFICE OF
THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South Carolina,
for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Samuel Temoney seeks to appeal the district court's order denying reconsideration of its order accepting the recommendation of the magistrate judge and denying relief on 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 March 20, 2007. The notice of appeal was filed on April 24, 2007.* Because Temoney failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and

*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).

legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED