

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7177

JOSEPH KINARD,

Petitioner - Appellant,

versus

TRACY JOHNS; J. JOSEPH CURRAN, JR., The
Attorney General of the State of Maryland,

Respondents - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Greenbelt. Deborah K. Chasanow, District Judge.
(8:07-cv-00132-DKC)

Submitted: February 13, 2008

Decided: April 22, 2008

Before MICHAEL, TRAXLER, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joseph Kinard, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joseph Kinard seeks to appeal the district court's orders dismissing his 28 U.S.C. § 2254 (2000) petition and denying his subsequent motion for reconsideration.¹ 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).² 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 orders were entered on the docket in January 2007 and May 2007, respectively. Kinard's notice of appeal

¹Kinard's notice of appeal states he is appealing the district court's May 29, 2007 order and "any and all other decisions of the court in reference to the denial of his habeas corpus motion as well." We construe Kinard's notice of appeal as an attempt to appeal both the district court's May 29, 2007 order denying Kinard's motion for reconsideration and the district court's January 26, 2007 order dismissing without prejudice Kinard's 28 U.S.C. § 2254 petition as second or successive.

²Kinard did not move for an extension of time to file his appeal under Fed. R. App. P. 4(a)(5).

was filed, at the earliest, on July 27, 2007.³ Because Kinard failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period as to either of the district court's orders, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

³Because Kinard is a prisoner and filed his notice of appeal pro se, it is deemed filed on the date he gave it to prison officials for mailing. See Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266, 276 (1988). July 27, 2007, is the date Kinard provided next to his signature on the notice of appeal.