UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6384

NATHANIEL V. LARRIMORE,

Petitioner - Appellant,

v.

GENE M. JOHNSON,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, Senior District Judge. (1:08-cv-00395-CMH-TCB)

Submitted: October 22, 2009 Decided: November 9, 2009

Before KING and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Nathaniel V. Larrimore, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Nathaniel V. Larrimore seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2006) petition without prejudice for failure to pay the filing fee. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

In civil cases, 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). A judgment or order is entered under Rule 4(a) when it is either set forth in a separate document, as required by Fed. R. Civ. P. 58(a), and entered into the district court's docket, or 150 days have passed from the entry of the judgment or order. Fed. R. App. P. 4(a)(7) (defining entry in civil cases). "[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 the § 2254 petition on July 21, 2008. However, because the court did not prepare and enter its judgment on a separate document, the appeal period began to run 150 days thereafter, or on December 18, 2008. The notice of appeal was filed on March 3, 2009. Because Larrimore 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 legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED