

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7308

BERNARD MURPHY,

Petitioner - Appellant,

v.

GEORGE T. HAGAN, Warden, Allendale Correctional Institution,

Respondent - Appellee,

and

WARDEN OF ALLENDALE CORRECTIONAL INSTITUTION,

Respondent.

Appeal from the United States District Court for the District of South Carolina, at Anderson. Henry M. Herlong, Jr., Senior District Judge. (8:08-cv-02432-HMH)

Submitted: September 10, 2009 Decided: September 16, 2009

Before KING, DUNCAN, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Bernard Murphy, Appellant Pro Se. Samuel Creighton Waters, Assistant Attorney General, Donald John Zelenka, Deputy Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bernard Murphy seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2254 (2006) 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 June 11, 2009. The notice of appeal was filed, at the earliest, on July 14, 2009.* Because Murphy 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

* See Houston v. Lack, 487 U.S. 266 (1988).