

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7387

HULON DOTSON,

Petitioner - Appellant,

v.

WARDEN, McCormick Correctional Institution,

Respondent - Appellee.

Appeal from the United States District Court for the District of
South Carolina, at Florence. Henry F. Floyd, District Judge.
(4:08-cv-03807-HFF)

Submitted: October 21, 2009

Decided: November 17, 2009

Before MICHAEL, MOTZ, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Hulon Dotson, Appellant Pro Se. Donald John Zelenka, Deputy
Assistant Attorney General, William Edgar Salter, III, Assistant
Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Hulon Dotson seeks to appeal the district court's order adopting the recommendation of the magistrate judge and denying relief on 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." Bowles v. Russell, 551 U.S. 205, 214 (2007).

The district court's order was entered on its docket on April 24, 2009. The notice of appeal was filed, at the earliest, on June 16, 2009,* fifty-three days later. Because Dotson 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

* 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, 276 (1988).

before the court and argument would not aid the decisional process.

DISMISSED