

**UNPUBLISHED**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-8232**

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MARSHALL LOCKLEAR, JR.,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA; ALEXANDRA MARINA HIGHTOWER; THEODIS BECK,

Respondents - Appellees.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. James A. Beaty, Jr., Chief District Judge. (1:07-cv-00682-RAE)

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Submitted: August 26, 2010

Decided: August 31, 2010

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

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Dismissed by unpublished per curiam opinion.

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Marshall Locklear, Jr., Appellant Pro Se. Clarence Joe DelForge, III; Mary Carla Hollis, Assistant Attorneys General, Raleigh, North Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marshall Locklear, Jr. seeks to appeal the district court's order 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). "[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's order was entered on the docket on September 24, 2008. The notice of appeal was filed on December 11, 2009.\* Because Locklear failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny leave to proceed in forma pauperis and dismiss the appeal. We also deny Locklear's pending motion to appoint counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the

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\* 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).

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

DISMISSED