

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-7167

DAVID CEASAR,

Petitioner - Appellant,

v.

A. PADULA, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Margaret B. Seymour, District Judge. (0:10-cv-00486-MBS)

Submitted: November 17, 2011

Decided: November 23, 2011

Before KING, DAVIS, and WYNN, Circuit Judges.

Dismissed in part and affirmed in part by unpublished per curiam opinion.

David Ceasar, 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Unpublished opinions are not binding precedent in this circuit.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:

David Ceasar seeks to appeal the district court's order adopting the recommendation of the Magistrate Judge and dismissing his 28 U.S.C. § 2254 (2006) petition as untimely, and its subsequent order denying his motion for an extension of time to file a notice of appeal. We dismiss in part and affirm in part.

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 dismissing Ceasar's § 2254 petition was entered on the docket on February 10, 2011. Ceasar filed his motion for an extension of time to file a notice of appeal on August 19, 2011, and a notice of appeal was filed on August 29, 2011.* Because Ceasar failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal

* For the purpose of this appeal, we assume that the date appearing on the motion and the notice of appeal is the earliest date each document 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).

period, we dismiss the appeal in part. The district court correctly found that Ceasar did not satisfy the requirements for extending or reopening the appeal period. Accordingly, we affirm in part.

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 IN PART;
AFFIRMED IN PART