

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7326

CARNELL DION MCELROY,

Petitioner - Appellant,

v.

HAROLD W. CLARKE,

Respondent - Appellee,

and

GENE M. JOHNSON,

Respondent.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, Senior District Judge. (1:11-cv-00425-CMH-TCB)

Submitted: October 15, 2012

Decided: October 23, 2012

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

Dismissed by unpublished per curiam opinion.

Carnell Dion McElroy, Appellant Pro Se. Robert H. Anderson, III, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Carnell Dion McElroy seeks to appeal the district court's order denying 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 June 17, 2012. The notice of appeal was filed on August 2, 2012. Because McElroy failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. Leave to proceed in forma pauperis is denied. We deny the motion for a certificate of appealability and 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