

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7907

RONDALL CLYDE MIXSON, a/k/a Randall Clyde Mixson,

Petitioner - Appellant,

v.

WARDEN,

Defendant - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Glen E. Conrad, Chief
District Judge. (7:11-cv-00308-GEC)

Submitted: March 26, 2013

Decided: March 28, 2013

Before DUNCAN, FLOYD, and THACKER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Rondall Clyde Mixson, Appellant Pro Se. Jennifer Conrad
Williamson, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA,
Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rondall Clyde Mixson seeks to appeal the district court's order denying relief on his § 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 30, 2011. The notice of appeal was filed on October 26, 2012.* Because Mixson 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 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 (1988).

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

DISMISSED