

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6056

SAMUEL STOKES,

Petitioner - Appellant,

v.

WARDEN LEE CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

SCDC,

Respondent.

Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Joseph F. Anderson, Jr., District Judge. (0:11-cv-02690-JFA)

Submitted: April 18, 2013

Decided: April 23, 2013

Before WILKINSON, GREGORY, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Samuel Stokes, Appellant Pro Se. Donald John Zelenka, Senior Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Samuel Stokes seeks to appeal the district court's order adopting the magistrate judge's report and recommendation and 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). A Fed. R. Civ. P. 59(e) motion will toll the notice period only if the petitioner filed the motion within twenty-eight days after entry of the district court's final order. Fed. R. App. P. 4(a)(4)(A)(iv). "[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 entered its order on the docket on August 17, 2012. Stokes filed his notice of appeal, at the earliest, on January 8, 2013. Stokes' untimely Rule 59(e) motion, filed in October 2012, did not toll the appeal period. Because Stokes 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 before this court and argument would not aid the decisional process.

DISMISSED