

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-6825**

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GREGORY LYNN ROSS,

Petitioner - Appellant,

v.

SUPERINTENDENT MICHAEL BALL,

Respondent - Appellee.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. L. Patrick Auld, Magistrate Judge. (1:12-cv-00292-LPA-LPA)

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Submitted: August 29, 2013

Decided: September 4, 2013

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Before DUNCAN, AGEE, and KEENAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Gregory Lynn Ross, Appellant Pro Se. Clarence Joe DelForge, III, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gregory Lynn Ross seeks to appeal the magistrate judge's order<sup>1</sup> dismissing as untimely 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 final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the magistrate judge 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 magistrate judge entered judgment on February 27, 2013. Ross filed a motion for a certificate of appealability on May 7, 2013.<sup>2</sup> Because Ross 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

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<sup>1</sup> Both parties consented to proceeding before a magistrate judge. See 28 U.S.C. § 636(c) (2006).

<sup>2</sup> 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).

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

DISMISSED