

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6829

CHRISTOPHER CAIN,

Petitioner - Appellant,

v.

HENRY PONTON, Warden, Nottoway Correctional Facility,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, District Judge. (2:11-cv-00656-MSD-LRL)

Submitted: October 29, 2013

Decided: November 4, 2013

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

Dismissed by unpublished per curiam opinion.

John O. Iweanoge, II, IWEANOGE LAW CENTER, Washington, D.C., for Appellant.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Christopher Cain seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2006) petition. We dismiss his appeal for lack of jurisdiction because the notice of appeal was not timely filed.

In civil cases in which the United States is not a party, 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). The district court may, however, extend the time for filing a notice of appeal if a party so moves within thirty days after the expiration of the original appeal period and demonstrates excusable neglect or good cause for the extension. Fed. R. App. P. 4(a)(5). The district court may also reopen the appeal period upon a timely motion by a party. 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 Cain's § 2254 petition was entered on March 20, 2013. Thus, Cain had until April 19, 2013, to file a notice of appeal. Cain filed his notice of appeal on May 17, 2013. Although the appeal period may be extended under Fed. R. App. 4(a)(5) or reopened under Fed. R. App. P. 4(a)(6), Cain has failed to file any motion seeking relief pursuant to these provisions. See Shah v. Hutto,

722 F.2d 1167, 1168-69 (4th Cir. 1983) (en banc) ("A bare notice of appeal should not be construed as a motion for extension of time, where no request for additional time is manifest."). Because Cain 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