

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-7626

BRIAN KEITH NESBITT,

Petitioner - Appellant,

v.

WARDEN TYGER RIVER CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

STATE OF SOUTH CAROLINA,

Respondent.

No. 15-6814

BRIAN KEITH NESBITT,

Petitioner - Appellant,

v.

WARDEN TYGER RIVER CORRECTIONAL INSTITUTION,

Respondent - Appellee,

and

STATE OF SOUTH CAROLINA,

Respondent.

Appeals from the United States District Court for the District of South Carolina, at Rock Hill. Richard Mark Gergel, District Judge. (0:13-cv-02602-RMG)

Submitted: August 24, 2015

Decided: August 31, 2015

Before WILKINSON, KING, and DUNCAN, Circuit Judges.

14-7626, Dismissed; 15-6814, Affirmed by unpublished per curiam opinion.

Brian Keith Nesbitt, Appellant Pro Se. Donald John Zelenka, Senior Assistant Attorney General, Kaycie Smith Timmons, Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In these consolidated appeals, Brian Keith Nesbitt seeks to challenge the district court's order adopting the magistrate judge's recommendation and dismissing his 28 U.S.C. § 2254 (2012) petition (No. 14-7626), and the court's order denying his Fed. R. Civ. P. 59(e) motion for reconsideration of its order, entered after a limited remand, finding that Nesbitt's notice of appeal was not timely filed (No. 15-6814). See Nesbitt v. Warden, Tyger River Corr. Inst., 599 F. App'x 68 (4th Cir. 2015). We dismiss the appeal in No. 14-7626 for lack of jurisdiction because the notice of appeal was not timely filed, and affirm the contested order in No. 15-6814.

Parties are accorded 30 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 9, 2014. The district court found on remand that the notice of appeal was most likely filed on October 15, 2014. Because Nesbitt failed to file a timely notice of appeal or to

obtain an extension or reopening of the appeal period, we dismiss the appeal in No. 14-7626.

In No. 15-6814, Nesbitt appeals the district court's order denying his Rule 59(e) motion. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. Nesbitt v. Warden Tyger River Corr. Inst., 0:13-cv-02602-RMG (D.S.C. May 26, 2015).

Accordingly, we dismiss the appeal in No. 14-7626 and affirm the district court's order in No. 15-6814. We deny Nesbitt's motions in No. 14-7626 to compel discovery, to appoint counsel, and for a preliminary injunction and a temporary restraining order, and his motions in No. 15-6814 to appoint counsel and for a preliminary injunction and temporary restraining order. We dispense with oral argument because the facts and legal contentions are adequately presented in the material before this court and argument will not aid the decisional process.

No. 14-7626, DISMISSED;
No. 15-6814, AFFIRMED