

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 15-6695**

---

FERNANDO GRADY HORTON,

Petitioner - Appellant,

v.

FRANK BISHOP, Warden; THE ATTORNEY GENERAL OF THE STATE OF MARYLAND,

Respondents - Appellees.

---

Appeal from the United States District Court for the District of Maryland, at Baltimore. William D. Quarles, Jr., District Judge. (1:13-cv-03538-WDQ)

---

Submitted: August 28, 2015

Decided: September 1, 2015

---

Before WILKINSON, WYNN, and THACKER, Circuit Judges.

---

Remanded by unpublished per curiam opinion.

---

Fernando Grady Horton, Appellant Pro Se. Edward John Kelley, OFFICE OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Fernando Grady Horton seeks to appeal the district court's order dismissing Horton's 28 U.S.C. § 2254 (2012) petition. The notice of appeal was received in this court shortly after expiration of the appeal period. Because Horton is incarcerated, the notice is considered filed as of the date it was properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266 (1988). The record does not reveal when Horton gave the notice of appeal to prison officials for mailing. Accordingly, we remand the case for the limited purpose of allowing the district court to obtain this information from the parties and to determine whether the filing was timely under Fed. R. App. P. 4(c)(1) and Houston v. Lack. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED