

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 15-7233**

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TYRONE JOHNSON,

Petitioner - Appellant,

v.

ROY COOPER,

Respondent - Appellee.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Frank D. Whitney, Chief District Judge. (3:14-cv-00242-FDW)

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Submitted: November 19, 2015

Decided: November 24, 2015

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Before NIEMEYER, KING, and HARRIS, Circuit Judges.

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Remanded by unpublished per curiam opinion.

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Tyrone Johnson, 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Unpublished opinions are not binding precedent in this circuit.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:

Tyrone Johnson, a North Carolina inmate, seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2012) federal habeas petition. The district court's final order was entered on March 31, 2015. We construe Johnson's notice of appeal as having been filed, at the earliest, on August 4, 2015, the date appearing on that document. See Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266, 276 (1988). In his notice of appeal, Johnson stated that he did not receive notice of the district court's order until August 3, 2015.

Parties are accorded 30 days after 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).

Johnson's notice of appeal is clearly untimely. However, under Rule 4(a)(6), the district court may reopen the time to file an appeal if (1) the moving party did not receive notice of entry of judgment within 21 days after entry, (2) the motion is filed within 180 days of entry of judgment or within 14 days of receiving notice from the court, whichever is earlier, and (3) no party would be prejudiced. We remand for the limited purpose

of permitting the district court to determine whether Johnson is entitled to the benefit of Rule 4(a)(6) to reopen the time to file an appeal. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED