

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7588

CLEVELAND LEWIS WILLIAMS,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA; ATTORNEY GENERAL FOR THE STATE OF
NORTH CAROLINA; BONTIA WITHERSPOON,

Respondents - Appellees.

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-00598-FDW)

Submitted: June 30, 2016

Decided: July 26, 2016

Before KING and KEENAN, Circuit Judges, and DAVIS, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Cleveland Lewis Williams, Appellant Pro Se. Clarence Joe
DelForge, III, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh,
North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Cleveland Lewis Williams seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2012) 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 Williams' § 2254 petition was entered on August 21, 2015. Thus, Williams had until September 21, 2015, to file a notice of appeal. Williams executed his notice of appeal on October 5, 2015. Although the appeal period may be extended under Fed. R. App. P. 4(a)(5) or reopened under Fed. R. App. P. 4(a)(6), Williams 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 Williams failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny his motion to proceed in forma pauperis and 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