

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7598

WILLIE GILMORE,

Petitioner - Appellant,

v.

WARDEN ROBERT STEVENSON, III,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Aiken. Richard M. Gergel, District Judge. (1:14-cv-04540-RMG)

Submitted: April 19, 2016

Decided: May 18, 2016

Before DIAZ and HARRIS, Circuit Judges, and DAVIS, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Willie Gilmore, 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Unpublished opinions are not binding precedent in this circuit.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:

Willie Gilmore seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his petition filed under 28 U.S.C. § 2254 (2012). Parties to a civil action 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). However, the district court may extend the time to file a notice of appeal if a party moves for an extension of the appeal period within 30 days after the expiration of the original appeal period and demonstrates excusable neglect or good cause to warrant an extension. Fed. R. App. P. 4(a)(5); see Washington v. Bumgarner, 882 F.2d 899, 900-01 (4th Cir. 1989). "[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 final judgment was entered on the docket on August 13, 2015. Gilmore's notice of appeal, dated September 17, 2015, was filed on Oct. 9, 2015, after the expiration of the 30-day appeal period but within the excusable neglect period. With his notice of appeal, Gilmore filed a motion containing language that we liberally construe as a request for an extension of time to appeal. Accordingly, we remand this case to the district court for the limited purpose of determining whether Gilmore has demonstrated excusable

neglect or good cause warranting an extension of the 30-day appeal period. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED