

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-7427

HERBERT LEE MATTHEWS, JR.,

Petitioner - Appellant,

v.

WARDEN RANDEL WILLIAMS,

Respondent - Appellee,

and

ALAN WILSON,

Respondent.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Richard Mark Gergel, District Judge. (6:15-cv-03194-RMG)

Submitted: January 18, 2018

Decided: January 23, 2018

Before GREGORY, Chief Judge, and SHEDD and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Herbert Lee Matthews, Jr., Appellant Pro Se. Donald John Zelenka, Deputy Attorney General, William Edgar Salter, III, Assistant Attorney General, OFFICE OF THE ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South Carolina, for

Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Herbert Lee Matthews, Jr., seeks to appeal the district court's order adopting the magistrate judge's recommendation and dismissing his 28 U.S.C. § 2254 (2012) petition as untimely. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

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 August 15, 2016. The notice of appeal was filed on September 24, 2017.* Because Matthews failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We further deny as moot Matthews' motion for a certificate of appealability. 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

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); *Houston v. Lack*, 487 U.S. 266 (1988).