

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-7565

ROGER RAYNARD PARKER,

Petitioner - Appellant,

v.

LARRY CARTLEDGE,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at
Anderson. Patrick Michael Duffy, Senior District Judge. (8:16-cv-02790-PMD)

Submitted: April 19, 2018

Decided: April 23, 2018

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

Remanded by unpublished per curiam opinion.

Roger Raynard Parker, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roger Raynard Parker seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing Parker's 28 U.S.C. § 2254 (2012) petition. 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). But 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 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 July 13, 2017. The envelope containing Parker's notice of appeal indicates that it was submitted to the prison mailing system on August 15, 2017, after expiration of the 30-day appeal period but within the excusable neglect period. *See* Fed. R. App. P. 4(c)(1). Because Parker's notice of appeal requested relief from any finding of untimeliness and offered an explanation for the time of his filing, we construe it to contain a request for an extension of time to file the notice of appeal. Accordingly, we remand the case for the limited purpose of allowing the district court to determine whether the time for filing a notice of appeal should be extended under Fed. R. App. P. 4(a)(5)(A). The record, as supplemented, will then be returned to this court for further consideration.

REMANDED