

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 18-6356**

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LARRY CONNELL STUBBS,

Petitioner - Appellant,

v.

BRAD PERRITT, Superintendent,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of North Carolina, at  
Raleigh. Terrence W. Boyle, District Judge. (5:15-hc-02239-BO)

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Submitted: July 19, 2018

Decided: July 24, 2018

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Before WILKINSON, MOTZ, and AGEE, Circuit Judges.

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Remanded by unpublished per curiam opinion.

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Larry Connell Stubbs, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Larry Stubbs seeks to appeal the district court’s order dismissing his 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). 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 February 12, 2018. Stubbs’ notice of appeal was dated March 29, 2018, and filed April 4, 2018—after expiration of the 30-day appeal period but within the excusable neglect period. Because Stubbs’ notice of appeal offered some excuse for his untimeliness and included a request to consider the notice of appeal as timely, we construe it as a request for an extension of time accompanying his 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*