

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6542

HARRY BRANTLEY,

Petitioner - Appellant,

v.

GENE JOHNSON, Director for the VA Department of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at
Alexandria. Gerald Bruce Lee, District Judge. (1:16-cv-00661-GBL-JFA)

Submitted: July 19, 2018

Decided: July 24, 2018

Before WILKINSON, MOTZ, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Harry Brantley, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Harry Brantley seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2012) petition. 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 September 12, 2017. The notice of appeal was filed, at the earliest, on May 6, 2018.¹ Because Brantley failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period,² we deny leave to proceed in forma pauperis, deny Brantley's motion to appoint counsel, 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

¹ 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).

² Although the district court did not rule on Brantley's Rule 4(a)(6) motion, we conclude that a remand is not necessary as the motion was untimely.