

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-6795

JOWARSKI RUSSELL NEDD,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director, Virginia Department of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. John A. Gibney, Jr., District Judge. (3:16-cv-00948-JAG-RCY)

Submitted: October 29, 2018

Decided: November 13, 2018

Before KING, FLOYD, and HARRIS, Circuit Judges.

Remanded by unpublished per curiam opinion.

Jowarski Russell Nedd, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jowarski Russell Nedd seeks to appeal the district court's order dismissing as untimely his 28 U.S.C. § 2254 (2012) petition. The district court's order was entered on the docket on May 25, 2017. The notice of appeal was filed on June 22, 2018.* 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).

Nedd's notice of appeal was not filed within 30 days after the district court's entry of judgment. However, Nedd sent the district court a letter dated August 14, 2017, stating that he had not received a response about his case and requesting an updated status of the case. We construe this letter as a motion to reopen the appeal period. *See* Fed. R. App. P. 4(a)(6). We remand the case for the limited purpose of allowing the district court to determine when Nedd received notice of the district court's entry of its final order and whether he is entitled to a reopening of the appeal period pursuant to Rule 4(a)(6). The record, as supplemented, will then be returned to this court for further proceedings.

REMANDED

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