

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7100

DEMOUNT ALSTON,

Petitioner - Appellant,

v.

TRACY S. RAY, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Leonie M. Brinkema, District Judge. (1:19-cv-00996-LMB-IDD)

Submitted: September 15, 2021

Decided: October 27, 2021

Before MOTZ, RICHARDSON, and QUATTLEBAUM, Circuit Judges.

Remanded by unpublished per curiam opinion.

Demount Alston, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Demount Alston seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 petition. In civil cases, parties have 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).

Alston noted his appeal more than two months after the district court entered judgment. However, in his notice of appeal, Alston asserted that there was a severe delay in his receipt of the district court's judgment, due in part to a prison lockdown relating to the Covid-19 pandemic. Based on this claim, we construe Alston's notice of appeal as a Fed. R. App. P. 4(a)(6) motion to reopen the appeal period, *see United States v. Withers*, 638 F.3d 1055, 1061 (9th Cir. 2011), and we remand to the district court for the limited purpose of determining whether reopening the appeal period is warranted. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED