

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7465

KELVIN TOYO HENRY,

Petitioner - Appellant,

v.

WARDEN OF THE GREENVILLE COUNTY DETENTION CENTER,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at
Anderson. Richard Mark Gergel, District Judge. (8:22-cv-01955-RMG)

Submitted: May 23, 2023

Decided: May 26, 2023

Before AGEE, WYNN, and QUATTLEBAUM, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Kelvin Toyo Henry, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kelvin Toyo Henry seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on Henry's 28 U.S.C. § 2254 petition and the court's subsequent order denying Henry's first motion to reconsider. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

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).

The district court entered its judgment dismissing Henry's § 2254 petition on August 11, 2022, and its order denying Henry's motion to reconsider on October 28, 2022. Henry filed the notice of appeal on December 18, 2022.* Because Henry failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period as to either order, we dismiss the appeal. We deny Henry's pending motion as moot.

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

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date Henry could have delivered the notice to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988).