UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-7149

FRED R. HALCOMB, JR.,

       Petitioner - Appellant,

    v.

WARDEN TRUITT,

       Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Anderson. Joseph Dawson, III, District Judge. (8:22-cv-01877-JD)

Submitted: February 27, 2024   Decided: March 1, 2024

Before WILKINSON, WYNN, and HARRIS, Circuit Judges.

Remanded by unpublished per curiam opinion.

Fred R. Halcomb, Jr., Appellant Pro Se.

PER CURIAM:

Fred R. Halcomb, Jr., seeks to appeal the district court's order accepting the magistrate judge's recommendation and denying relief on Halcomb's 28 U.S.C. § 2254 petition. In a civil case, a party must file a notice of appeal within 30 days of the judgment or order being appealed, 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).

Because Halcomb is incarcerated, the notice is considered filed as of the date it was properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266 (1988). The record does not conclusively establish when Halcomb gave the notice of appeal to prison officials for mailing. The notice of appeal contains an unsworn and unnotarized handwritten note by Halcomb that was dated within the appeal period, but the postmark date on the envelope that contained the notice of appeal suggests that prison officials may have received the notice after the expiration of the appeal period. Accordingly, we remand the case for the limited purpose of allowing the district court to determine whether Halcomb timely noted an appeal under Rule 4(c)(1) and *Houston*. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED