

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

\_\_\_\_\_  
No. 17-50403  
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United States Court of Appeals  
Fifth Circuit

**FILED**

March 13, 2018

Lyle W. Cayce  
Clerk

JAMES FULTON, JR.,

Petitioner-Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

\_\_\_\_\_  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:13-CV-47  
\_\_\_\_\_

Before SMITH, WIENER, and HAYNES, Circuit Judges.

PER CURIAM:\*

James Fulton, Jr., Texas prisoner # 1770265, has filed a notice of appeal that is untimely with respect to the denial of his 28 U.S.C. § 2254 application challenging his conviction for murder. *See* FED. R. APP. P. 4(a)(1)(A). It also is untimely with respect to the denial of his motion seeking to reopen the time for appeal. *See* FED. R. APP. P. 4(a)(1)(A), (c)(1). Alternatively, his request to the district court to reopen the time for appeal was untimely, so his appeal of

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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that denial is without merit. Accordingly, the appeal is DISMISSED. *See Hamer v. Neighborhood Hous. Servs. of Chicago*, 138 S. Ct. 13, 16-17 (2017); 28 U.S.C. § 2107(a), (c). The motions for a certificate of appealability and leave to proceed in forma pauperis are DENIED.