

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6533

BENJAMIN BANNISTER,

Petitioner - Appellant,

versus

WILLIAM D. CATOE, Director of South Carolina
Department of Corrections; STATE OF SOUTH
CAROLINA; CHARLES CONDON,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Greenwood. Margaret B. Seymour, District Judge.
(CA-99-1504-9-24RB)

Submitted: August 17, 2001

Decided: September 10, 2001

Before WILKINS, WILLIAMS, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Benjamin Bannister, Appellant Pro Se. Donald John Zelenka, Chief
Deputy Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Benjamin Bannister seeks to appeal the district court's order denying his petition for habeas corpus relief under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2000). We dismiss the appeal for lack of jurisdiction because Bannister's notice of appeal was not timely filed.

Parties are accorded thirty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), 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). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on September 29, 2000. According Bannister the benefit of Fed. R. App. P. 4(c), his notice of appeal was filed on March 28, 2001. Although Bannister claimed he did not receive the district court's order until March 9, 2001, he did not move for an extension of time to appeal within seven days of his receipt of the district court's order. Fed. R. App. P. 4(a)(6)(A). Because Bannister failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the

facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED