

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6729

MUHAMMAD WALIYULLAH KARIM ABDUL QADIR,

Petitioner - Appellant,

versus

THE SOUTH CAROLINA DEPARTMENT OF HIGHWAYS AND
PUBLIC TRANSPORTATION; RICHARD ROLLINGS,
Jailor; CHARLES M. CONDON, Attorney General of
the State of South Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Columbia. Dennis W. Shedd, District Judge.
(CA-00-733-3-19BC)

Submitted: August 23, 2001

Decided: August 30, 2001

Before WILKINS and KING, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Muhammad Waliyullah Karim Abdul Qadir, Appellant Pro Se. Donald
John Zelenka, Chief Deputy Attorney General, Columbia, South Caro-
lina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Muhammad Qadir appeals the district court's order adopting the magistrate judge's recommendation that his petition for a writ of habeas corpus under 28 U.S.C.A. § 2254 (West Supp. 2000) be dismissed. However, Qadir's notice of appeal of the district court's February 20, 2001 order was not filed until April 20, 2001, outside the thirty-day period contemplated by Fed. R. App. P. 4(a)(1). Additionally, although Qadir filed a motion styled as a motion for reconsideration on March 15, 2001, that motion was filed after the March 9, 2001 deadline for filing a motion under Fed. R. App. P. 59(e), which would have tolled the appeal period. See Fed. R. App. P. 4(a)(4); Panhorst v. United States, 241 F.3d 367, 370 (4th Cir. 2001). Accordingly, we dismiss Qadir's appeal as to the district court's order dismissing his § 2254 petition as untimely. See id. at 369-70 (citing Browder v. Director, Dept of Corr., 434 U.S. 257, 264 (1978) for the proposition that observation of Rule 4's requirements is both "mandatory and jurisdictional").

Although Qadir's notice of appeal is timely as to the district court's order denying his motion for reconsideration under Fed. R. Civ. P. Rule 60(b), the district court stated it conducted a review of the magistrate judge's report and recommendation and found it proper. In light of this, we find no error in the district court's denial of Qadir's Rule 60(b) motion raising his failure to receive a copy of that report and recommendation, as Qadir nevertheless

received the review his filing of objections would have entitled him to.

Accordingly, we dismiss as untimely Qadir's appeal with respect to the denial of his § 2254 petition, and deny a certificate of appealability and dismiss his appeal as to the denial of his Rule 60(b) motion. Additionally, we deny Qadir's motion to strike the magistrate judge's report and recommendation from the record. 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