

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

CARLOS ANTONIO CAMPOS,
Petitioner-Appellant,

v.

STAN K. YOUNG, Warden;
COMMONWEALTH OF VIRGINIA,
Respondents-Appellees.

No. 02-6407

Appeal from the United States District Court
for the Eastern District of Virginia, at Alexandria.
Claude M. Hilton, Chief District Judge.
(CA-01-1474)

Submitted: September 24, 2002

Decided: October 10, 2002

Before WIDENER, LUTTIG, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Carlos Antonio Campos, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Carlos Antonio Campos appeals from the district court's order denying his second motion for reconsideration in his 28 U.S.C. § 2254 action in the district court.

The district court's order dismissing Campos' § 2254 petition was entered on October 22, 2001. Campos did not appeal that order. Instead, he filed a motion for reconsideration on November 27, 2001* that the court denied on December 18, 2001. Campos then filed a second motion for reconsideration on December 30, 2001, which the court denied on February 21, 2002. Campos' notice of appeal was filed on February 27, 2002. Because Campos filed his motions to reconsider more than ten days from the district court's order dismissing his § 2254 petition, the time period for filing his appeal from the denial of § 2254 relief was not tolled. *See* Fed. R. App. P. 4(a)(4); *Panhorst v. United States*, 241 F.3d 367, 370 (4th Cir. 2001). In addition, Campos' notice of appeal is timely only as to the district court's order denying his second motion for reconsideration, which was properly construed under Fed. R. Civ. P. 60(b).

This court reviews denial of a Fed. R. Civ. P. 60(b) motion for abuse of discretion. *See NOW v. Operation Rescue*, 47 F.3d 667, 669 (4th Cir. 1995) (per curiam). We have reviewed the record and conclude the district court's order denying Campos' second motion for reconsideration was not an abuse of discretion. Accordingly, we deny a certificate of appealability and dismiss Campos' 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

*For the purpose of this appeal, we assume the date appearing on Campos' filings is the earliest date they could have been given to prison officials for mailing. *See* Fed. R. App. 4(c); *Houston v. Lack*, 487 U.S. 266 (1988).