

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6079

GARY WILLIAMS,

Petitioner - Appellant,

versus

WARDEN, Wallens Ridge State Prison,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Jackson L. Kiser, Senior District Judge. (CA-03-448-7)

Submitted: June 23, 2004

Decided: July 8, 2004

Before WILLIAMS, GREGORY, and DUNCAN, Circuit Judges.

Remanded by unpublished per curiam opinion.

Gary Williams, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Gary Williams seeks to appeal the district court's order denying relief on his petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 (2000). The district court dismissed Williams' petition in an order entered on November 12, 2003. Williams' notice of appeal, dated December 22, 2003, was received in the district court on December 29, 2003. In his notice of appeal, Williams stated that he "only received [the district court's order] from Prison Staff on December 11." Williams' notice of appeal was made within the period of time applicable for a determination of excusable neglect or good cause under Rule 4(a)(5) of the Federal Rules of Appellate Procedure and expressed his desire to preserve his appeal. See Myers v. Stephenson, 781 F.2d 1036, 1038-39 (4th Cir. 1986). Accordingly, we remand this case to the district court for the limited purpose of permitting that court to determine whether Williams has shown excusable neglect or good cause warranting an extension of time for filing a notice of appeal. The record, as supplemented, then will be returned to this court for further consideration.

REMANDED