

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 06-7783

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ROGER LEE HARRELL,

Petitioner - Appellant,

versus

COMMONWEALTH OF VIRGINIA,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Dennis W. Dohnal, Magistrate Judge. (3:05-cv-00636-DWD)

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Submitted: February 22, 2007

Decided: March 2, 2007

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Before WILLIAMS, MOTZ, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Roger Lee Harrell, Appellant Pro Se. Eugene Paul Murphy, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roger Lee Harrell seeks to appeal the magistrate judge's order\* dismissing his Fed. R. Civ. P. 60(b) motion as a successive motion under 28 U.S.C. § 2254 (2000), for which Harrell had not obtained authorization pursuant to 28 U.S.C. § 2244 (2000). We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), 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. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The magistrate judge's order was entered on the docket on August 28, 2006. The notice of appeal was filed on October 5, 2006, the date on which Harrell states he delivered it to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988). Because Harrell failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense

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\*The parties consented to proceed before a United States magistrate judge. See 28 U.S.C. § 636(c) (2000).

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