

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8454

CHRIS RATTIS,

Petitioner - Appellant,

v.

H. JACKSON,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. James C. Dever III,
District Judge. (5:08-hc-02026-D)

Submitted: August 26, 2009

Decided: September 17, 2009

Before GREGORY and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Chris Rattis, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Chris Rattis seeks to appeal the district court's order dismissing as successive his 28 U.S.C. § 2254 (2006) petition for a writ of habeas corpus. 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). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 214 (2007). Therefore, the appeal must be dismissed if the notice of appeal is untimely. Washington v. Bumgarner, 882 F.2d 899, 900 (4th Cir. 1989).

The district court's order was entered on the docket on September 29, 2008. Rattis' notice of appeal was filed, at the earliest, on November 17, 2008.* Because Rattis failed to file a timely notice of appeal or to obtain an extension or

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. See Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266, 276 (1988).

reopening of the appeal period, we deny leave to proceed in forma pauperis 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