

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6260

DARRELL SILVERN ROCHESTER, a/k/a Darrell S. Rochester,

Petitioner - Appellant,

v.

HENRY MCMASTER; CECILIA REYNOLDS, Warden, Kershaw
Correctional Institution,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Anderson. Patrick Michael Duffy, District
Judge. (8:08-cv-01677-PMD)

Submitted: May 28, 2009

Decided: June 8, 2009

Before WILKINSON, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Darrell Silvern Rochester, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darrell Silvern Rochester seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2254 (2006) petition. 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)). Accord Bowles v. Russell, 551 U.S. 205 (2007).

The district court's order was entered on December 23, 2008. The notice of appeal was filed, at the earliest, on February 4, 2009.* Because Rochester 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 with oral argument because the facts and legal contentions are adequately

* See Houston v. Lack, 487 U.S. 266, 276 (1988).

presented in the materials before the court and argument would not aid the decisional process.

DISMISSED