

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6342

SERGIO MASSEY,

Petitioner - Appellant,

v.

JON OZMINT, Director SC Department of Corrections; TIM
RILEY, Interim Warden of the Perry Correctional Institution,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Beaufort. Sol Blatt, Jr., Senior District
Judge. (9:08-cv-02666-SB)

Submitted: May 20, 2010

Decided: May 28, 2010

Before WILKINSON, NIEMEYER, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Sergio Massey, Appellant Pro Se. Donald John Zelenka, Deputy
Assistant Attorney General, Alphonso Simon, Jr., OFFICE OF THE
ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South Carolina,
for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sergio Massey seeks to appeal the district court's order accepting the recommendation of the magistrate judge and 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). "[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).

The district court's order was entered on the docket on January 4, 2010. The notice of appeal was filed on February 18, 2010.* Because Massey 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 presented

* 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. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

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

DISMISSED