

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-6199

ANNETTE MICHELLE MCCARTHY,

Petitioner - Appellant,

v.

WARDEN TAMMY BROWN,

Respondent - Appellee.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. James C. Turk, Senior
District Judge. (7:10-cv-00300-jct-mfu)

Submitted: April 21, 2011

Decided: April 27, 2011

Before WILKINSON, GREGORY, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Annette Michelle McCarthy, Appellant Pro Se. Richard Carson
Vorhis, Senior Assistant Attorney General, Richmond, Virginia,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Annette Michelle McCarthy seeks to appeal the district court's order dismissing as untimely her 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 December 10, 2010. The notice of appeal was filed on February 7, 2011.* Because McCarthy 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

* 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); 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