

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-6566

CURTIS LAMONT MCCOY,

Petitioner - Appellant,

v.

DIRECTOR, VIRGINIA DEPARTMENT OF CORRECTIONS,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, Senior District Judge. (3:13-cv-00857-JRS)

Submitted: July 23, 2015

Decided: July 28, 2015

Before NIEMEYER and KING, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Curtis Lamont McCoy, Appellant Pro Se. Craig Stallard, Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Curtis Lamont McCoy seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying his 28 U.S.C. § 2254 (2012) petition. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties in a civil action in which the United States is not a party are accorded 30 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 March 11, 2015. The notice of appeal was filed, at the earliest, on April 13, 2015.¹ Because McCoy failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period,²

¹ We assume that the date McCoy signed and dated 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, 276 (1988).

² McCoy did not explicitly request additional time in which to file his notice of appeal, nor did he request a reopening of the appeal period. He dated his notice of appeal April 13, 2015, which would make his notice untimely. The postmark on the envelope

we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

is dated April 16, 2015. The notice of appeal was not sworn or notarized in accordance with Fed. R. App. P. 4(c)(1). “[A] bare notice of appeal should not be construed as a motion for extension of time, where no request for additional time is manifest.” Washington v. Bumgarner, 882 F.2d 899, 901 (4th Cir. 1989) (quoting Shah v. Hutto, 722 F.2d 1167, 1168-69 (4th Cir. 1983) (en banc)).