

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 99-6977**

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JOSEPH MCINTYRE,

Petitioner - Appellant,

versus

STATE OF NORTH CAROLINA,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (CA-99-20-5-BR)

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Submitted: October 14, 1999

Decided: October 27, 1999

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Before MURNAGHAN, NIEMEYER, and WILLIAMS, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Joseph McIntyre, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Joseph McIntyre seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1999). We dismiss the appeal for lack of jurisdiction because McIntyre's notice of appeal was not timely filed.

Parties are accorded thirty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), 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. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on March 18, 1999. McIntyre's notice of appeal was filed on July 14, 1999.\* Because McIntyre failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability 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

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\* Even if we accept McIntyre's assertion that he originally delivered his notice of appeal to prison authorities for mailing on April 20, 1999, his appeal would still be untimely.