

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-7347

HELEN JEAN HONAKER,

Petitioner - Appellant,

versus

J. N. LILLER, Warden, Pruntytown Correctional
Center; STATE OF WEST VIRGINIA,

Respondents - Appellees.

Appeal from the United States District Court for the Southern Dis-
trict of West Virginia, at Charleston. John T. Copenhaver, Jr.,
District Judge. (CA-98-564-2)

Submitted: November 4, 1999

Decided: November 10, 1999

Before NIEMEYER, MICHAEL, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Helen Jean Honaker, Appellant Pro Se. Darrell V. McGraw, Jr., Dawn
Ellen Warfield, OFFICE OF THE ATTORNEY GENERAL OF WEST VIRGINIA,
Charleston, West Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Helen Jean Honaker seeks to appeal the district court's order denying relief on her petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 1999). We dismiss the appeal for lack of jurisdiction because Honaker's 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, 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 entered its order on July 20, 1999; Honaker's notice of appeal was filed on September 27, 1999. Honaker's failure to file a timely notice of appeal* or to obtain either an extension or a reopening of the appeal period leaves this court without jurisdiction to consider the merits of her appeal. We therefore deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal

* For the purposes of this appeal we assume that the date Honaker wrote on the notice of appeal is the earliest date it would have been submitted to prison authorities for mailing. See Houston v. Lack, 487 U.S. 266 (1988).

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

DISMISSED