

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-6358

GARY D. GILLESPIE,

Petitioner - Appellant,

versus

HOWARD PAINTER, acting warden,

Respondent - Appellee.

Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. Irene M. Keeley, District Judge. (CA-98-104-1)

Submitted: May 25, 2000

Decided: June 6, 2000

Before WILLIAMS, MICHAEL, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Gary D. Gillespie, Appellant Pro Se. Darrell V. McGraw, Jr., Leah Perry Macia, OFFICE OF THE ATTORNEY GENERAL OF WEST VIRGINIA, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Gary D. Gillespie seeks to appeal the district court's order dismissing his 28 U.S.C.A. § 2254 (West Supp. 1999) petition. We dismiss the appeal for lack of jurisdiction because Gillespie'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 December 22, 1999. Gillespie's notice of appeal was filed on March 3, 2000.* Because Gillespie failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, 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

* We have given Gillespie the benefit of the filing provisions enunciated in Houston v. Lack, 487 U.S. 266 (1988).