

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-6054

LEONARDO ROQUE,

Petitioner - Appellant,

v.

ERIK A. HOOKS, Secretary of the North Carolina Department of Public Safety,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of North Carolina, at
Charlotte. Martin K. Reidinger, Chief District Judge. (3:18-cv-00459-MR)

Submitted: May 19, 2022

Decided: May 24, 2022

Before MOTZ and HARRIS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Leonardo Roque, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Leonardo Roque seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 petition as barred by the statute of limitations. Roque filed his notice of appeal on December 28, 2021.* In his notice, Roque stated that he did not receive notice of the district court's order until December 3, after the 30-day appeal period expired, was misadvised by the district court on the steps he needed to take to perfect his appeal, and that he was having difficulty accessing the prison notary because of the Christmas holiday. Accordingly, we remand this case for the limited purpose of allowing the district court to determine whether Roque demonstrated good cause or excusable neglect and if the appeal period should be reopened or extended. *See* Fed. R. App. P. 4(a)(5), (6). The record, as supplemented, will then be returned to this court for further consideration.

REMANDED

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date Roque could have delivered the notice to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988).