

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-8031

ALFONZO BAILEY,

Petitioner - Appellant,

v.

GENE M. JOHNSON, Director,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Liam O'Grady, District Judge. (1:08-cv-00842-LO-TRJ)

Submitted: January 27, 2010

Decided: February 12, 2010

Before NIEMEYER, DUNCAN, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Alfonzo Bailey, Appellant Pro Se. Susan Mozley Harris, Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alfonzo Bailey seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2006) petition. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties in a civil case are accorded thirty 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). This appeal period is mandatory and jurisdictional. Bowles v. Russell, 551 U.S. 205 (2007).

The district court's order was entered on the docket on July 23, 2009. The notice of appeal was filed on October 15, 2009.* Because Bailey failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the

* For the purpose of this appeal, we assume that the date appearing on 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)(1); Houston v. Lack, 487 U.S. 266 (1988).

materials before the court and argument would not aid the decisional process.

DISMISSED