

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6271

NATHANIEL CALDWELL, III,

Petitioner - Appellant,

v.

WARDEN ROBERTO ROBERTS,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Aiken.
Richard Mark Gergel, District Judge. (1:14-cv-04277-RMG)

Submitted: October 17, 2017

Decided: October 30, 2017

Before KING, DIAZ, and FLOYD, Circuit Judges.

Remanded by unpublished per curiam opinion.

Nathaniel Caldwell, III, Appellant Pro Se. Melody Jane Brown, Assistant Attorney General, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Nathaniel Caldwell, III, seeks to appeal the district court's orders accepting the magistrate judge's recommendation in part, denying relief on his 28 U.S.C. § 2254 (2012) petition, and denying his motion for reconsideration. We order a limited remand.

Parties are accorded 30 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). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." *Bowles v. Russell*, 551 U.S. 205, 214 (2007). An inmate's notice of appeal is considered filed as of the date it was properly delivered to prison officials for mailing to the court. *See* Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266 (1988).

The district court's order denying Caldwell's motion for reconsideration was dated October 14, 2016 and entered on October 17, 2016. On February 21, 2017, this court received a letter from Caldwell claiming that he had timely filed his notice of appeal on November 7, 2016 by giving it to prison authorities for mailing on that date. He also provided some evidence in support of the assertion. However, that notice of appeal does not appear in the district court's docket. Because the letter evidenced an intent to appeal, we construed it as a notice of appeal and forwarded it to the district court for filing.

We now remand the case to the district court for the limited purpose of determining whether Caldwell filed a timely notice of appeal under Rule 4(c)(1). The record, as supplemented, will then be returned to this court for further consideration.

REMANDED