

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-7347

ROBERT LINWOOD PRINCE,

Petitioner - Appellant,

v.

HAROLD W. CLARKE, Director, Virginia Department of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:17-cv-00233-RAJ-LRL)

Submitted: April 4, 2019

Decided: April 9, 2019

Before NIEMEYER and HARRIS, Circuit Judges, and SHEDD, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Robert Linwood Prince, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert L. Prince seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing his 28 U.S.C. § 2254 (2012) petition. Parties to a civil action 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). However, the district court may extend the time to file a notice of appeal if a party moves for an extension of the appeal period within 30 days after the expiration of the original appeal period and demonstrates excusable neglect or good cause to warrant an extension. Fed. R. App. P. 4(a)(5); *see Washington v. Bumgarner*, 882 F.2d 899, 900-01 (4th Cir. 1989). "[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).

The district court entered its final order on September 12, 2018. Prince filed his notice of appeal with the prison mail system on October 25, 2018, after the expiration of the 30-day appeal period but within the excusable neglect period. *See* Fed. R. App. P. 4(c); *Houston v. Lack*, 487 U.S. 266 (1988). With his notice of appeal, Prince filed a motion containing language that we construe as a request for an extension of time to appeal. Accordingly, we remand this case to the district court for the limited purpose of determining whether Prince has demonstrated excusable neglect or good cause warranting an extension of the 30-day appeal period. The record, as supplemented, will then be returned to this Court for further consideration.

REMANDED