

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-6755

EGBERT FRANCIS, JR.,

Petitioner - Appellant,

v.

MARY LOCKLEAR,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Richard E. Myers, II, Chief District Judge. (5:25-hc-02143-M-RJ)

Submitted: December 18, 2025

Decided: December 23, 2025

Before NIEMEYER and BERNER, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Egbert Francis, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Egbert Francis, Jr., seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 petition as an unauthorized second or successive petition. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

In civil cases, parties have 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).

The district court entered its order on June 25, 2025, and the appeal period expired on July 25, 2025. Francis did not file his notice of appeal until, at the earliest, September 1, 2025. *See Houston v. Lack*, 487 U.S. 266, 276 (1988) (establishing prison mailbox rule). On appeal, Francis has filed a motion for leave to file his notice of appeal out of time. However, Francis filed his notice of appeal well beyond the 30-day appeal period, as well as the additional 30-day excusable neglect period provided for in Fed. R. App. P. 4(a)(5), so he is not entitled to an extension of the appeal period. Additionally, to the extent that Francis's motion could be construed as a motion to reopen the appeal period, Francis has not satisfied Fed. R. App. P. 4(a)(6) because he does not claim that he did not receive notice of the entry of the district court's judgment within 21 days of its entry or provide any other justification for his request. Accordingly, we deny Francis's motion to reopen the appeal period and for appointment of counsel, and we dismiss the appeal.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED