

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Courts
Southern District of Texas
FILED

June 25, 2019

No. 19-20372

David J. Bradley, Clerk of Court



WILLIAM CARPENTER,

Petitioner - Appellant

v.

A True Copy
Certified order issued Jun 25, 2019

Tyler W. Caylor
Clerk, U.S. Court of Appeals, Fifth Circuit

**LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,**

Respondent - Appellee

4:18-CV-2587

**Appeal from the United States District Court
for the Southern District of Texas**

Before DAVIS, HIGGINSON, and ENGELHARDT, Circuit Judges.

PER CURIAM:

This court must examine the basis of its jurisdiction, on its own motion if necessary. *Hill v. City of Seven Points*, 230 F.3d 167, 169 (5th Cir. 2000). Pursuant to 28 U.S.C. § 2107(a) and Federal Rule of Appellate Procedure 4(a)(1)(A), the notice of appeal in a civil case must be filed within thirty days of entry of judgment. In this habeas corpus case filed by a state prisoner, the final judgment was entered and certificate of appealability was denied on April 3, 2019. Therefore, the final day for filing a timely notice of appeal was May 3, 2019. Strangely, the petitioner's pro se notice of appeal is dated May 27, 2019 but stamped as filed on May 24, 2019. Because the notice of appeal is dated

No. 19-20372

May 27, 2019, it could not have been deposited in the prison's mail system within the prescribed time. *See FED. R. APP. P. 4(c)(1)* (prisoner's pro se notice of appeal is timely filed if deposited in the institution's internal mail system on or before the last day for filing). Even giving the petitioner the benefit of the earlier filing date, the notice of appeal was filed late. When set by statute, the time limitation for filing a notice of appeal in a civil case is jurisdictional. *Hamer v. Neighborhood Hous. Servs. of Chi.*, 138 S. Ct. 13, 17 (2017); *Bowles v. Russell*, 551 U.S. 205, 214 (2007). The lack of a timely notice mandates dismissal of the appeal. *Robbins v. Maggio*, 750 F.2d 405, 408 (5th Cir. 1985). Accordingly, the appeal is DISMISSED for want of jurisdiction.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

June 25, 2019

Mr. David J. Bradley
Southern District of Texas, Houston
United States District Court
515 Rusk Street
Room 5300
Houston, TX 77002

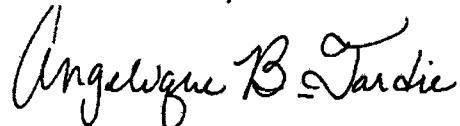
No. 19-20372 William Carpenter v. Lorie Davis, Director
USDC No. 4:18-CV-2587

Dear Mr. Bradley,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By:
Angelique B. Tardie, Deputy Clerk
504-310-7715

cc w/encl:

Mr. William Carpenter
Mr. Craig William Cosper
Mr. Edward Larry Marshall

4-3-2019

UNITED STATES DISTRICT COURT

United States District Court
SOUTHERN DISTRICT OF TEXAS
Southern District of Texas

ENTERED

April 03, 2019

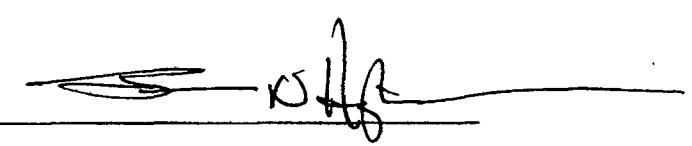
David J. Bradley, Clerk

William Stephen Carpenter, §
Petitioner, §
§
v. § Civil Action H-18-2587
§
Lorie Davis, §
Respondent. §

Order of Adoption

On March 27, 2019, Magistrate Judge Peter Bray entered a memorandum and recommendation recommending that William Stephen Carpenter's petition for writ of habeas corpus be denied with prejudice. (D.E. 14.) Carpenter filed objections (D.E. 15), which are denied. After considering the record and the law, the court adopts the memorandum and recommendation as its memorandum and opinion. The court will issue a separate final judgment.

Signed 04/03 2019, at Houston, Texas.


Lynn N. Hughes
United States District Judge

UNITED STATES DISTRICT COURT

United States District Court
SOUTHERN DISTRICT OF TEXAS
Southern District of Texas

ENTERED

April 03, 2019

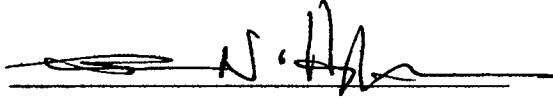
David J. Bradley, Clerk

William Stephen Carpenter, §
Petitioner, §
§
v. § Civil Action H-18-2587
§
§
Lorie Davis, §
Respondent. §

Final Judgment

William Stephen Carpenter's petition for writ of habeas corpus is denied with prejudice. A certificate of appealability will not issue.

Signed 04.03 2019, at Houston, Texas.



Lynn N. Hughes
United States District Judge