

United States Court of Appeals
for the Fifth Circuit



No. 20-20348

A True Copy
Certified order issued Sep 14, 2020

Steph W. Cayer
Clerk, U.S. Court of Appeals, Fifth Circuit

LAWRENCE JAMES NAPPER,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, *Director,*
Texas Department of Criminal Justice, Correctional Institutions Division,

Respondent—Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:20-CV-261

Before HIGGINBOTHAM, SMITH, 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). Under 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 February 4, 2020.

No. 20-20348

On February 20, 2020, the petitioner filed a document titled “OBJECTION TO FINAL JUDGMENT.” The district court construed the document as a motion for reconsideration under Federal Rule of Civil Procedure 59(e) and denied relief on February 27, 2020. Therefore, the final day for filing a timely notice of appeal was Monday, March 30, 2020, because the thirtieth day was a Saturday. *See* FED. R. APP. P. 26(a)(1)(C).

The petitioner’s *pro se* notice of appeal and motion to proceed *in forma pauperis* are dated June 6, 2020 and stamped as filed on June 29, 2020. Therefore, the notice of appeal could not have been deposited in the prison’s mail system within the prescribed time. *See* FED. R. APP. P. 4(c)(1) (stating that a prisoner’s *pro se* notice of appeal is timely if deposited in the institution’s internal mail system on or before the last day for filing). 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. *United States v. Garcia-Machado*, 845 F. 2d 492, 493 (5th Cir. 1988). Accordingly, the appeal is DISMISSED for want of jurisdiction. All pending motions are DENIED.

**Additional material
from this filing is
available in the
Clerk's Office.**