

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-11130

Non-Argument Calendar

JOSIAH HATHAWAY,

Petitioner-Appellant,

versus

ATTORNEY GENERAL, STATE OF FLORIDA,

Respondent-Appellee.

Appeal from the United States District Court
for the Northern District of Florida
D.C. Docket No. 1:21-cv-00097-AW-ZCB

Before ROSENBAUM, BRASHER, and ABUDU, Circuit Judges.

PER CURIAM:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. Josiah Hathaway appeals from the district court's March 6, 2024, order and judgment denying his 28 U.S.C. § 2254 habeas corpus petition.

Because it was unclear from the record when Hathaway filed his notice of appeal, we remanded the case to the district court for the limited purpose of determining the date on which Hathaway filed it. On remand, the district court, after providing Hathaway with an opportunity to respond, concluded that he had filed his notice of appeal on April 9, 2024.

In light of the district court's factual finding on remand, we conclude that we lack jurisdiction over this appeal because Hathaway's notice of appeal is untimely. See *Green v. Drug Enft Admin.*, 606 F.3d 1296, 1300 (11th Cir. 2010). The deadline for filing a notice of appeal was April 5, 2024, and Hathaway did not file his notice of appeal until April 9, 2024. See 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A). Moreover, there is no basis in the record for relief under Fed. R. App. P. 4(a)(5) or 4(a)(6). See 28 U.S.C. § 2107(c); Fed. R. App. P. 4(a)(5)(A), 4(a)(6); *Parker v. Strickland*, 728 F.2d 1406, 1407 (11th Cir. 1984); *Sanders v. United States*, 113 F.3d 184, 186 (11th Cir. 1997).

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All pending motions are DENIED as moot. No petition for rehearing may be filed unless it complies with the timing and other requirements of 11th Cir. R. 40-3 and all other applicable rules.