

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-14034

Non-Argument Calendar

ASARU EL-BEY,
a.k.a. Asaru Nebemare El-Bey,
Petitioner-Appellant,
versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
Respondent-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:25-cv-00945-TPB-TGW

Before JORDAN, ROSENBAUM, and BRASHER, Circuit Judges.

PER CURIAM:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction because Asaru El-Bey's notice of appeal, filed on November 12, 2025, is untimely to appeal from the district court's October 9, 2025, final judgment dismissing his habeas corpus petition. *See* 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A), 26(a)(1)(C); *Green v. Drug Enf't Admin.*, 606 F.3d 1296, 1300-01 (11th Cir. 2010) (providing that in a civil case, a timely notice of appeal is a jurisdictional requirement). All pending motions are DENIED as moot.

Although El-Bey's November 12 notice of appeal is untimely, the record reveals that he filed on November 3 a motion for certificate of appealability that we construe as a timely notice of appeal. *See Rinaldo v. Corbett*, 256 F.3d 1276, 1278-80 (11th Cir. 2001) (explaining that a document may be construed as a notice of appeal when (1) the document serves the functional equivalent of a notice of appeal, and (2) the document "specifically indicate[s] the litigant's intent to seek appellate review"); *Smith v. Barry*, 502 U.S. 244, 248-49 (1992) ("If a document filed within the time specified by [Federal] Rule [of Appellate Procedure] 4 gives the notice required by Rule 3, it is effective as a notice of appeal."); *Thames v. Dugger*, 848 F.2d 149, 150 (11th Cir. 1988) (construing application for certificate of probable cause, the precursor to a certificate of appealability, as a notice of appeal). Accordingly, the district court is DIRECTED to transmit to this Court El-Bey's November 3, 2025, motion for certificate of appealability as a notice of appeal from the final judgment. Upon receiving that construed notice of appeal from the district court, the Clerk shall open a new appeal.