

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

No. 17-50403

United States Court of Appeals
Fifth Circuit

FILED

March 13, 2018

Lyle W. Cayce
Clerk

JAMES FULTON, JR.,

Petitioner-Appellant

v.

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

Respondent-Appellee

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:13-CV-47

Before SMITH, WIENER, and HAYNES, Circuit Judges.

PER CURIAM:*

James Fulton, Jr., Texas prisoner # 1770265, has filed a notice of appeal that is untimely with respect to the denial of his 28 U.S.C. § 2254 application challenging his conviction for murder. *See* FED. R. APP. P. 4(a)(1)(A). It also is untimely with respect to the denial of his motion seeking to reopen the time for appeal. *See* FED. R. APP. P. 4(a)(1)(A), (c)(1). Alternatively, his request to the district court to reopen the time for appeal was untimely, so his appeal of

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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that denial is without merit. Accordingly, the appeal is DISMISSED. *See Hamer v. Neighborhood Hous. Servs. of Chicago*, 138 S. Ct. 13, 16-17 (2017); 28 U.S.C. § 2107(a), (c). The motions for a certificate of appealability and leave to proceed in forma pauperis are DENIED.