

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 98-60791  
Conference Calendar

---

WILLIE R. EVANS,

Petitioner-Appellant,

versus

ROGER COOK, Superintendent,

Respondent-Appellee.

-----  
Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 1:96-CV-73-GG  
-----

February 16, 2000

Before EMILIO M. GARZA, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:\*

Willie R. Evans, Mississippi prisoner # 72565A, requests a certificate of appealability to appeal the district court's dismissal of his 28 U.S.C. § 2254 petition. Because Evans' petition was filed prior to the effective date of the Antiterrorism and Effective Death Penalty Act, his motion is construed as a request for a certificate of probable cause (CPC). Evans also requests appointment of counsel and permission to proceed in forma pauperis (IFP).

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Federal Rule of Appellate Procedure 4(a)(1) (West 1997) requires the notice of appeal in a civil action to be filed within 30 days of the entry of a final judgment. A timely notice of appeal is a prerequisite to the exercise of jurisdiction by this court. United States v. Cooper, 135 F.3d 960, 961 (5th Cir. 1998); United States v. Winn, 948 F.2d 145, 153 (5th Cir. 1991).

Evans did not file a notice of appeal within 30 days of the entry of the district court's final judgment. The last day for filing a timely notice of appeal from the denial of his § 2254 petition was June 30, 1997. Therefore, Evans' appeal is DISMISSED for lack of jurisdiction, and his motions for permission to proceed IFP, appointment of counsel, and CPC are DENIED AS MOOT.

APPEAL DISMISSED; MOTIONS DENIED AS MOOT.