

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

February 15, 2021

Lyle W. Cayce
Clerk

No. 20-40076
Summary Calendar

AUNDRI D. LEWIS,

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. 4:08-CV-2710

Before JONES, COSTA, and WILSON, *Circuit Judges.*

PER CURIAM:*

In 2005, Aundri D. Lewis, Texas prisoner # 1305555, was convicted of aggravated assault. He moves for a certificate of appealability (COA) in regard to his 28 U.S.C. § 2254 proceedings relating to that conviction.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-40076

“[W]e must consider the basis of our own jurisdiction, sua sponte if necessary.” *Perez v. Stephens*, 784 F.3d 276, 280 (5th Cir. 2015). A timely notice of appeal is a jurisdictional requirement for this appeal. *See Bowles v. Russell*, 551 U.S. 205, 214 (2007). Lewis’s notice of appeal was filed more than three months after the district court’s October 18, 2019 order denying his motions for a COA and leave to proceed in the district court in forma pauperis. The notice of appeal therefore is untimely as to that order. *See* 28 U.S.C. § 2107(a); FED. R. APP. P. 4(a)(1)(A). It also would be untimely with respect to the district court’s earlier judgment denying Lewis’s § 2254 application in 2009. *See* § 2107(a); FED. R. APP. P. 4(a)(1)(A).

Given the untimeliness of Lewis’s notice of appeal, we lack jurisdiction over this appeal. Accordingly, the appeal is DISMISSED for lack of jurisdiction, and Lewis’s motion for a COA is DENIED AS MOOT.