

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-6084

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WILL HAMILTON,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Dennis W. Shedd, District Judge. (CR-96-679)

Submitted: May 31, 2000

Decided: June 28, 2000

Before WILKINS, WILLIAMS, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Will Hamilton, Appellant Pro Se. Jane Barrett Taylor, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Following his guilty plea, Will Hamilton was convicted of possession with intent to distribute cocaine base in violation of 21 U.S.C.A. § 841(a)(1) (West 1999). On March 25, 1998, the district court sentenced him to 188 months in prison. This court affirmed the district court's judgment. See United States v. Hamilton, 178 F.3d 1287, 1999 WL 253817 (4th Cir. Apr. 29, 1999) (unpublished). Hamilton now attempts to file a second direct criminal appeal pursuant to 18 U.S.C.A. § 3742 (West 1985 and Supp. 2000). We lack jurisdiction to consider the merits of the appeal, however, because it is untimely. Criminal defendants have ten days from the entry of the judgment or order at issue to file a notice of appeal. See Fed. R. App. P. 4(b). The appeal periods established by Rule 4 are mandatory and jurisdictional. See Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978). Hamilton filed his notice of appeal in January 2000, nearly two years outside the appeal period. Hamilton's untimely appeal deprives this court of jurisdiction to consider its merits. We therefore dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED