

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 00-6815**

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JESUS ANTONIO GRACIA,

Petitioner - Appellant,

versus

RONALD J. ANGELONE, Director of the Virginia  
Department of Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern Dis-  
trict of Virginia, at Norfolk. William T. Prince, Magistrate Judge.  
(CA-99-2138-2)

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Submitted: November 9, 2001

Decided: December 18, 2001

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Before TRAXLER and KING, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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William P. Robinson, Jr., Norfolk, Virginia, for Appellant.  
Richard Bain Smith, Assistant Attorney General, Richmond, Virginia,  
for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jesus Antonio Gracia seeks to appeal the magistrate judge's order denying relief on his petition filed under 28 U.S.C.A. § 2254 (West 1994 & Supp. 2001).<sup>\*</sup> We dismiss the appeal for lack of jurisdiction because Gracia's notice of appeal was not timely filed.

In civil cases in which the United States is not a party, parties are accorded thirty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on May 1, 2000. Gracia's notice of appeal was filed by his counsel on June 6, 2000. Because Gracia failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions

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<sup>\*</sup> The parties consented to the jurisdiction of a magistrate judge pursuant to 28 U.S.C. § 636(c) (1994). (R. 4, 6).

are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED