

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-2403

ELMER T. TIMMONS,

Plaintiff - Appellant,

versus

WICOMICO COUNTY HOUSING AUTHORITY; DEIRDRE
WALKER,

Defendants - Appellees.

No. 02-1113

ELMER T. TIMMONS,

Plaintiff - Appellant,

versus

WICOMICO COUNTY HOUSING AUTHORITY; DEIRDRE
WALKER,

Defendants - Appellees.

Appeals from the United States District Court for the District of
Maryland, at Baltimore. William M. Nickerson, District Judge.
(CA-99-2858-WMN)

Submitted: April 17, 2002

Decided: May 1, 2002

Before WILKINS, LUTTIG, and GREGORY, Circuit Judges.

No. 01-2403 dismissed and No. 02-1113 affirmed by unpublished per curiam opinion.

John H. Morris, Jr., Baltimore, Maryland, for Appellant. Robin R. Cockey, COCKEY, BRENNAN & MALONEY, P.C., Salisbury, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

In No. 01-2403, Elmer T. Timmons seeks to appeal the district court's order granting summary judgment to Defendants in Timmons' action alleging employment discrimination. We dismiss the appeal for lack of jurisdiction because Timmons' notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), 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. Dir., 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 October 4, 2001. Timmons' notice of appeal was filed on November 21, 2001. Because Timmons failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal.

In No. 02-1113, Timmons appeals the district court's order denying his motion to extend the time to note his appeal from the order entered on October 4. The district court construed the notice of appeal filed on November 21 as a motion to extend the appeal period under Fed. R. App. P. 4(a)(5). The district court was

without authority to construe Timmons' bare notice of appeal, which contained no request for additional time, as a Rule 4(a)(5) motion. See Wilder v. Chairman, Cent. Classification Bd., 926 F.2d 367, 371 (4th Cir. 1991); Washington v. Bumgarner, 882 F.2d 899, 901 (4th Cir. 1989). We therefore affirm the district court's denial of Timmons' motion.

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.

No. 01-2403 - DISMISSED

No. 02-1113 - AFFIRMED