

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6220

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RICHARD HENRY PARRISH, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, District Judge. (CR-97-30041, CA-00-606-7)

Submitted: May 31, 2001

Decided: June 8, 2001

Before WILKINS, TRAXLER, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Richard Henry Parrish, Jr., Appellant Pro Se. Anthony Paul Giorno, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Richard Parrish appeals the district court's order denying his motion filed under 28 U.S.C.A. § 2255 (West Supp. 2000), and a subsequent order denying his motion for a certificate of appealability. As to his appeal of the district court's denial of relief on his § 2255 motion, we dismiss the appeal for lack of jurisdiction because Parrish's notice of appeal was not timely filed. In actions where the United States is a party, parties are accorded sixty 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. 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 August 3, 2000. Parrish's notice of appeal was filed on January 18, 2001.* Because Parrish failed to file a timely notice of appeal or to obtain an extension or

* Parrish mistakenly filed his notice of appeal with this court on January 18, 2001. This court forwarded the notice of appeal to the district court for filing. The notice of appeal was thus filed in the district court on January 23, 2001. In accordance with Fed. R. App. P. 4(d), Parrish's notice of appeal is deemed filed on January 18, 2001, the date the notice of appeal was received by this court and sent to the district court.

reopening of the appeal period, we dismiss the appeal as to this order.

With respect to Parrish's appeal of the order denying his motion for a certificate of appealability, we have reviewed the district court's order and find no reversible error. Accordingly, we deny a certificate of appealability and dismiss the appeal on the reasoning of the district court. See United States v. Parrish, Nos. CR-97-30041; CA-00-606-7 (W.D. Va. Nov. 21, 2000). 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