

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 01-7402**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

BARRY LEE SAUNDERS,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Greenbelt. Alexander Williams, Jr., District Judge. (CR-96-205, CA-01-1184)

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Submitted: January 31, 2002

Decided: February 6, 2002

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Before NIEMEYER, WILLIAMS, and MICHAEL, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Barry Lee Saunders, Appellant Pro Se. Stuart A. Berman, Assistant United States Attorney, Greenbelt, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Barry Lee Saunders seeks to appeal the district court's order denying his motion for leave to file an untimely motion pursuant to 28 U.S.C.A. § 2255 (West Supp. 2001) and denying his motion for a downward departure pursuant to U.S. Sentencing Guidelines Manual § 3E1.1. We dismiss the appeal for lack of jurisdiction because Saunders's notice of appeal was not timely filed.

Parties are accorded sixty days after 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 Corrections, 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 11, 2001. Saunders's notice of appeal was filed on August 20, 2001. Because Saunders failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we 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