

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-8027

ELIZABETH JENKINS,

Plaintiff - Appellant,

versus

BOB WISE, Governor; CECIL UNDERWOOD, Former
Governor; SANDRA ILBERTON, former chairperson
of the West Virginia Parole Board,

Defendants - Appellees.

Appeal from the United States District Court for the Northern
District of West Virginia, at Clarksburg. Irene M. Keeley, Chief
District Judge. (CA-01-63-1)

Submitted: February 11, 2003

Decided: March 12, 2003

Before MOTZ, TRAXLER, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Elizabeth Jenkins, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Elizabeth Jenkins seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge and dismissing Jenkins' civil rights action brought under 42 U.S.C. § 1983 (2000). We dismiss the appeal for lack of jurisdiction because the 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, 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 October 19, 2001. The notice of appeal was filed on November 20, 2001.* Because Jenkins 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

* We originally remanded this case to the district court to determine when Jenkins gave her notice of appeal to prison officials for mailing. On remand, the district court held an evidentiary hearing and determined that Jenkins handed her notice of appeal to prison officials on November 20, 2001. The district court's finding is supported by substantial evidence and we find no bases to disturb it.

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

DISMISSED