

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-2170**

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DIANE S. SHERMAN,

Plaintiff - Appellant,

versus

BELL ATLANTIC-VIRGINIA, INCORPORATED,

Defendant - Appellee.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Tommy E. Miller, Magistrate Judge. (CA-99-2132-2)

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Submitted: December 18, 2002

Decided: January 21, 2003

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Before NIEMEYER, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Diane S. Sherman, Appellant Pro Se. Betty S.W. Graumlich, George William Norris, Jr., MCSWEENEY & CRUMP, P.C., Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Diane S. Sherman seeks to appeal an order entered on September 24, 2002. The district court docket sheet reveals that there was no order entered on or about that date. To the extent that Sherman seeks to appeal the magistrate judge's order\* denying relief on her motion for relief from judgment pursuant to Fed. R. Civ. P. 60(b)(3), 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. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The magistrate judge's order was entered on the docket on January 30, 2002. The notice of appeal was filed on October 4, 2002. Because Sherman failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We deny Sherman's motions for appointment of counsel, to consolidate with Appeal No. 02-2162, and to correct the

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\* This case was decided by a magistrate judge upon consent of the parties under 28 U.S.C. § 636(c)(1) (2000).

record and deny her motion to expedite consideration of this appeal as moot. 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