

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-6393**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

VICTOR WILLIAM HARGRAVE,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Salisbury. James A. Beaty, Jr., District Judge. (CR-95-186, CA-99-294-1)

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Submitted: August 29, 2002

Decided: September 5, 2002

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Before WIDENER and MICHAEL, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Victor William Hargrave, Appellant Pro Se. Anna Mills Wagoner, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Victor William Hargrave seeks to appeal the district court's order denying his motion for reconsideration. We dismiss the appeal for lack of jurisdiction, because Hargrave's notice of appeal was not timely filed.

Since the United States was a party to the action, Hargrave was 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 extended the appeal period under Fed. R. App. P. 4(a)(5) or reopened 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 October 10, 2001. Hargrave's notice of appeal was filed on February 19, 2002.\* Because Hargrave failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions

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\* For the purpose of this appeal we assume that the date appearing on the notice of appeal is the earliest date it could have been given to prison officials for mailing. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

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

DISMISSED