

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-7746

LUIS J. VALENCIA,

Petitioner - Appellant,

versus

W. F. DALIUS, Warden, LSCI Butner,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, Chief District Judge. (CA-02-381-5)

Submitted: January 30, 2003

Decided: February 5, 2003

Before WIDENER, NIEMEYER, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Luis J. Valencia, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Luis J. Valencia seeks to appeal the district court's order dismissing his petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 (2000). We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

When the United States or its officer or agency is a party, the notice of appeal must be filed no more than sixty days after the entry of the district court's final judgment or order, Fed. R. App. P. 4(a)(1)(B), 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 July 5, 2002. Giving Valencia the benefit of Fed. R. App. P. 4(c), the notice of appeal was executed on September 4, 2002, one day beyond the expiration of the appeal period. Because Valencia 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