

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-7792**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DANIEL LUTZ,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. Peter J. Messitte, District Judge. (CR-95-293-PJM, CA-99-3663-HMH)

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Submitted: January 16, 2003

Decided: January 29, 2003

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Before WILLIAMS, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Daniel Lutz, Appellant Pro Se. Andrew Clayton White, Lynne Ann Battaglia, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Daniel Lutz seeks to appeal the district court's order denying his Fed. R. Civ. P. 60(b) motion. 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 dated June 25, 2002, and entered on the docket on June 28, 2002. The notice of appeal was filed on October 15, 2002. Because Lutz 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 deny Lutz's motion to compel and motion to expand the record. 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