

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-2317

THOMAS DARBY,

Plaintiff - Appellant,

versus

ORANGEBURG, City of; D ALLEN OTT,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Orangeburg. Cameron McGowan Currie, District Judge. (CA-01-4184-22BD-5)

Submitted: January 29, 2004

Decided: February 4, 2004

Before WILKINSON, MICHAEL, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Thomas Darby, Appellant Pro Se. Marvin Coleman Jones, BOGOSLOW, JONES, STEPHENS & DUFFIE, P.A., Walterboro, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Thomas Darby seeks to appeal the district court's order adopting the magistrate judge's report and recommendation to dismiss his 42 U.S.C. § 1983 (2000) complaint for failing to allege a deprivation of a federal right. 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 November 1, 2002. The notice of appeal was filed on October 20, 2003. Because Darby 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