

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6140**

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BARRY C. ROBERTS,

Plaintiff - Appellant,

versus

E. P. WARD, Officer; E. KELLY, Sergeant;  
CAPTAIN HATCHETT; CAPTAIN TAYLOR,

Defendants - Appellees.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry Coke Morgan, Jr., District Judge. (CA-02-852-2)

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Submitted: March 6, 2003

Decided: March 18, 2003

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Before WILKINSON, MICHAEL, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Barry C. Roberts, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Barry C. Roberts seeks to appeal the district court's order dismissing his action filed under 42 U.S.C. § 1983 (2000). 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 December 3, 2002. The notice of appeal was dated January 9, 2003, and filed on January 14, 2003. Even giving Roberts the benefit of Fed. R. App. P. 4(c), he failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period. Accordingly, 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