

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6625

TYRONE A. QUILLER,

Plaintiff - Appellant,

versus

OFFICER BYRD,

Defendant - Appellee,

and

MR. STRAHAN; ERNEST SUTTON, Superintendent;
NORSE KOEBLIN,

Defendants.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. W. Earl Britt, Senior
District Judge. (CA-01-629-5-BR)

Submitted: June 19, 2003

Decided: June 30, 2003

Before NIEMEYER, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Tyrone A. Quiller, Appellant Pro Se. Elizabeth F. Parsons, OFFICE
OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North Carolina,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Tyrone A. Quiller seeks to appeal the district court's order substantially adopting the magistrate judge's report and recommendation and dismissing Quiller's 42 U.S.C. § 1983 (2000) action. 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 March 7, 2003. The notice of appeal was filed on April 13, 2003.* Because Quiller failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. Further, we deny Quiller's motion to amend his informal brief and dispense with oral argument because the facts and legal contentions

* 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 properly delivered to prison officials for mailing to the court. 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