

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-1228

WILLIAM NEWTON CLINKSCALES, JR.,

Plaintiff - Appellant,

versus

GEORGE M. DUCWORTH, individually; DANNY
LAFEYETTE DURHAM, individually; LAYTON
CREAMER, individually; ANDREW SAVAGE; ALLAN
HOLMES; COMING BALL GIBBS,

Defendants - Appellees,

and

WILLIAM YARBOROUGH,

Defendant.

Appeal from the United States District Court for the District of
South Carolina, at Anderson. Henry F. Floyd, District Judge. (CA-
02-3043-8-26BI)

Submitted: January 14, 2005

Decided: February 10, 2005

Before NIEMEYER, MICHAEL, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

William Newton Clinkscates, Jr., Appellant Pro Se. Henry Dargan
McMaster, Attorney General, Clyde Havird Jones, Jr., Assistant

Attorney General, Columbia, South Carolina, William Henry Davidson, II, David Leon Morrison, Matthew Blaine Rosbrugh, DAVIDSON, MORRISON & LINDEMANN, P.A., Columbia, South Carolina, Elizabeth Ramage McMahon, OFFICE OF THE ATTORNEY GENERAL, Columbia, South Carolina; William Joseph Sussman, Augusta, Georgia; James Dean Jolly, Jr., Stacey Todd Coffee, LOGAN, JOLLY & SMITH, L.L.P., Anderson, South Carolina; Carl Everrette Pierce, II, Joseph Camden Wilson, IV, PIERCE, HERNS, SLOAN & MCLEOD, Charleston, South Carolina; Allan Riley Holmes, Coming Ball Gibbs, Jr., GIBBS & HOLMES, Charleston, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

William Newton Clinkscales, Jr., seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge and granting summary judgment in favor of the defendants in his 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 Corrections, 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 January 7, 2004. The notice of appeal was filed on February 23, 2004. Because Clinkscales failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we grant the Appellees' motions to 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