

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-2384**

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DANIEL WOODS,

Plaintiff - Appellant,

versus

ELAINE L. CHAO, Secretary, Department of  
Labor,

Defendant - Appellee.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Charleston. John T. Copenhaver, Jr.,  
District Judge. (CA-03-7-2)

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Submitted: April 14, 2005

Decided: April 19, 2005

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Before WILKINSON, NIEMEYER, and MICHAEL, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Daniel Woods, Appellant Pro Se. Kasey Warner, United States  
Attorney, Kelly Rixner Curry, Assistant United States Attorney,  
Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Daniel Woods seeks to appeal the district court's order adopting the report and recommendation of the magistrate judge and granting summary judgment to the Defendant in his civil action under Title VII, the Rehabilitation Act, and the Age Discrimination in Employment Act. 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 entered on the docket on August 27, 2004. The notice of appeal was filed on October 27, 2004. Accordingly, the appeal was filed one day late. Because Woods 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