

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7792

DAVID ATKINS,

Plaintiff - Appellant,

versus

MEDICAL DEPARTMENT OF AUGUSTA COUNTY JAIL;
LYNN MOORE, Doctor; CATHY RILEY, Nurse

Defendants - Appellees.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Glen E. Conrad, District Judge.
(7:06-cv-00251-gec)

Submitted: March 29, 2007

Decided: April 4, 2007

Before MOTZ, TRAXLER, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

David Atkins, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Atkins seeks to appeal the district court's order dismissing without prejudice his 42 U.S.C. § 1983 (2000) complaint for failure to state a claim upon which relief may be granted. 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. Dir., 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 June 29, 2006. The notice of appeal was filed on October 15, 2006. Because Atkins 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