

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1053

PROVIDENT LIFE & ACCIDENT INSURANCE COMPANY,

Plaintiff - Appellee,

v.

KEVIN M. CLARKE,

Defendant - Appellant.

No. 08-1400

PROVIDENT LIFE & ACCIDENT INSURANCE COMPANY,

Plaintiff - Appellee,

v.

KEVIN M. CLARKE,

Defendant - Appellant.

No. 08-1401

PROVIDENT LIFE & ACCIDENT INSURANCE COMPANY,

Plaintiff - Appellee,

v.

KEVIN M. CLARKE,

Defendant - Appellant.

Appeals from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (1:06-cv-00792-JCC-BRP)

Submitted: June 26, 2008

Decided: June 30, 2008

Before KING and DUNCAN, Circuit Judges, and WILKINS, Senior Circuit Judge.

No. 08-1053 dismissed; Nos. 08-1400 and 08-1401 affirmed by unpublished per curiam opinion.

Kevin M. Clarke, Appellant Pro Se. Brenna Kathleen Newman, Edward Hutton Starr, TROUTMAN & SANDERS, LLP, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

These consolidated appeals arise out of the same district court civil action, in which Provident Life and Accident Insurance Company ("Provident") alleged Kevin Clarke perpetrated insurance fraud. The parties signed a settlement agreement, the validity of which Clarke thereafter disputed in district court.

First, in Case No. 08-1053, Kevin Clarke seeks to appeal the district court's order granting Provident's motion to enforce the settlement agreement and denying Clarke's motion to nullify the settlement agreement. 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 November 2, 2007, and Clarke's notice of appeal and motion for an extension of time to appeal were filed on December 19, 2007. Clarke's notice of appeal was untimely filed, and the district court's finding that Clarke failed to demonstrate excusable neglect necessary to extend the appeal period was not an abuse of discretion. See Thompson v. E.I. DuPont de Nemours & Co., Inc., 76

F.3d 530, 533 (4th Cir. 1996). Accordingly, we dismiss Clarke's appeal in No. 08-1053.

Next, in Case No. 08-1400, Clarke seeks to appeal the district court's order denying his motion to alter or amend judgment. The motion was not timely under Fed. R. Civ. P. 59(e), and relief was not warranted under Fed. R. Civ. P. 60(b) because the motion simply sought reconsideration of the issues already decided by the district court. See CNF Constructors, Inc. v. Donohoe Constr. Co., 57 F.3d 395, 401. (4th Cir. 1995). Accordingly, we affirm the district court's order in No. 08-1400.*

Finally, in Case No. 08-1401, Clarke appeals the district court's order denying his motion for appointment of counsel. Finding no abuse of discretion, see Miller v. Simmons, 814 F.2d 962, 964-65 (4th Cir. 1987), we affirm for the reasons stated by the district court. See Provident Life and Accident Ins. Co. v. Clarke, No. 1:06-cv-00792-JCC) (E.D. Va. Mar. 19, 2008).

*To the extent that Clarke seeks to appeal the denial of his motion for an extension of time to file a notice of appeal, which was submitted in the same document as his motion to alter and amend, we likewise dismiss the appeal for the reasons stated above in our dismissal of Case No. 08-1053.

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.

No. 08-1053 DISMISSED
No. 08-1400 AFFIRMED
No. 08-1401 AFFIRMED