

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1555

KENACE FITZGERALD WRIGHT,

Plaintiff - Appellant,

v.

JACK CATES, Durham City Police Officer; ANTHONY WAYNE SMITH,
Durham City Police Officer,

Defendants - Appellees.

Appeal from the United States District Court for the Middle
District of North Carolina, at Durham. N. Carlton Tilley, Jr.,
District Judge. (1:03-cv-00109-NCT-RAE)

Submitted: September 5, 2008

Decided: November 3, 2008

Before NIEMEYER, MICHAEL, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Kenace Fitzgerald Wright, Appellant Pro Se. Reginald Bernard
Gillespie, Jr., FAISON & GILLESPIE, Durham, North Carolina;
Kimberly Martin Grantham, CITY ATTORNEY'S OFFICE, Durham, North
Carolina; Thomas Russell Odom, OFFICE OF THE COUNTY ATTORNEY,
Durham, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenace Fitzgerald Wright seeks to appeal the district court's order granting summary judgment to Defendants in this 42 U.S.C. § 1983 (2000) action. The Appellees move to dismiss the appeal as untimely. Because the notice of appeal was not timely filed, we grant the motion and dismiss the appeal.

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 April 7, 2008. The notice of appeal was filed on May 9, 2008. Because Wright failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we grant the motion to dismiss the appeal. Also, we deny as moot the Appellees' motion to extend the time for filing an informal brief. 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