

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-1591

DANNY LANE IVESTER, SR.,

Plaintiff - Appellant,

and

DANNY LANE IVESTER, JR.,

Plaintiff,

v.

JOHN LESLIE SMITH, Judge, Spartanburg Municipal Court in his individual and official capacity; SPARTANBURG, SOUTH CAROLINA, City of; MARK SCOTT, CEO City Manager in his individual & official capacity,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Anderson. G. Ross Anderson, Jr., District Judge. (8:07-cv-03637-GRA)

Submitted: July 15, 2008

Decided: August 12, 2008

Before NIEMEYER, KING, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Danny Lane Ivester, Sr., Appellant Pro Se. James Dean Jolly, Jr., LOGAN, JOLLY & SMITH, LLP, Anderson, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Danny Lane Ivester, Sr., seeks to appeal the district court's order adopting the recommendation of the magistrate judge and dismissing this 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 8, 2008. The notice of appeal was filed on May 20, 2008. Because Ivester 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. 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