

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8481

WALI FARAD MUHAMMAD BILAL,

Petitioner - Appellant,

v.

STATE OF NORTH CAROLINA,

Respondent - Appellee.

Appeal from the United States District Court for the Western
District of North Carolina, at Asheville. Graham C. Mullen,
Senior District Judge. (1:06-cv-00082-GCM)

Submitted: March 16, 2009

Decided: March 25, 2009

Before MICHAEL, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Wali Farad Muhammad Bilal, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Wali Farad Muhammad Bilal seeks to appeal the district court's order dismissing as untimely Bilal's 28 U.S.C. § 2254 (2006) petition. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

In actions in which the United States is not a party, litigants 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 September 8, 2008. The notice of appeal was filed on October 23, 2008. Because Bilal 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