

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6298

DEVIN DENEIL DINKINS,

Plaintiff - Appellant,

v.

LAWRENCE DINKINS; SUMTER COUNTY CORRECTIONAL INSTITUTION;
AGENT CLEMONS,

Defendants - Appellees,

and

MAMIE ELLA SANDERS DINKINS,

Defendant.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. Cameron McGowan Currie, District
Judge. (0:08-cv-00859-CMC)

Submitted: May 21, 2009

Decided: June 1, 2009

Before MOTZ, TRAXLER, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Devin Deneil Dinkins, Appellant Pro Se. John Derrick Clark,
Sumter, South Carolina; James M. Davis, Jr., Joel Steve Hughes,
DAVIDSON & LINDEMANN, PA, Columbia, South Carolina; Tommy Evans,
Jr., SOUTH CAROLINA DEPARTMENT OF PROBATION, PAROLE & PARDON,
Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Devin Deneil Dinkins seeks to appeal the district court's order denying relief on his 42 U.S.C. § 1983 (2006) complaint. 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 October 24, 2008. The notice of appeal was filed on February 17, 2009.* Because Dinkins failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. In light of this disposition, we grant the Appellee's motion to dismiss the appeal and we deny Dinkins' motion to subpoena memorandum and supporting documents

*For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

and for extension of time. 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