

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-3008

D. JOHNSON WILLIS,

Plaintiff - Appellant,

and

EARNESTINE BROWN; JAMES EDWARD RHODES,

Plaintiffs,

versus

JAMES B. HUNT, JR., Governor of the State of North Carolina; MICHAEL EASLEY, Attorney General of the State of North Carolina; STATE OF NORTH CAROLINA; THE GLOBAL TRANSPARK DEVELOPMENT COMMISSION; JAMES G. MARTIN, Chairman; NANCY STALLINGS, Vice President; JONES COUNTY BOARD OF COMMISSIONERS; NOLAN JONES, Chairman, Jones County Board of Commissioners; HORACE PHILLIPS, member, Jones County Board of Commissioners; CHARLES BATTLE, JR., member, Jones County Board of Commissioners; ROBERT L. MATTOCKS, member, Jones County Board of Commissioners; LESLIE D. STRAYHORN, member, Jones County Board of Commissioners; JONES COUNTY, NORTH CAROLINA,

Defendants - Appellees.

No. 95-3024

D. JOHNSON WILLIS,

Plaintiff - Appellant,

and

EARNESTINE BROWN; JAMES EDWARD RHODES,

Plaintiffs,

versus

JAMES B. HUNT, JR., Governor of the State of North Carolina; MICHAEL EASLEY, Attorney General of the State of North Carolina; STATE OF NORTH CAROLINA; THE GLOBAL TRANSPARK DEVELOPMENT COMMISSION; JAMES G. MARTIN, Chairman; NANCY STALLINGS, Vice President; JONES COUNTY BOARD OF COMMISSIONERS; NOLAN JONES, Chairman, Jones County Board of Commissioners; HORACE PHILLIPS, member, Jones County Board of Commissioners; CHARLES BATTLE, JR., member, Jones County Board of Commissioners; ROBERT L. MATTOCKS, member, Jones County Board of Commissioners; LESLIE D. STRAYHORN, member, Jones County Board of Commissioners; JONES COUNTY, NORTH CAROLINA,

Defendants - Appellees.

Appeals from the United States District Court for the Eastern District of North Carolina, at Greenville. Malcolm J. Howard, District Judge. (CA-94-1-CV-4-H3)

Submitted: February 7, 1996

Decided: February 21, 1996

Before MURNAGHAN and WILLIAMS, Circuit Judges, and PHILLIPS, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

D. Johnson Willis, Appellant Pro Se. Elizabeth Nina Strickland,
NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina;
Ronald Gene Braswell, BARNES, BRASWELL, HAITHCOCK & WARREN, P.A.,
Goldsboro, North Carolina; Cheryl A. Marteney, WARD & SMITH, P.A.,
New Bern, North Carolina; Robert Scott Pierce, WOMBLE, CARLYLE,
SANDRIDGE & RICE, Winston-Salem, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Appellant noted the appeal in No. 95-3008 outside the thirty-day appeal period established by Fed. R. App. P. 4(a)(1), failed to obtain an extension of the appeal period within the additional thirty-day period provided by Fed. R. App. P. 4(a)(5), and is not entitled to relief under Fed. R. App. P. 4(a)(6). The time periods established by Fed. R. App. P. 4 are "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). The district court entered its order on July 21, 1994; Appellant's notice of appeal was filed on November 3, 1995. Appellant's failure to note a timely appeal or obtain an extension of the appeal period deprives this court of jurisdiction to consider this case. We therefore dismiss this appeal.

Appellant timely appealed the district court order entered on November 13, 1995, in No. 95-3024. The subject of this appeal is the district court's order striking Appellant's untimely notice of appeal. The district court did not have jurisdiction to strike the untimely notice of appeal. See Liles v. South Carolina Dep't of Corrections, 414 F.2d 612, 614 (4th Cir. 1969). However, we dismiss this appeal as moot because the untimely appeal was transmitted to this court, so the Appellant received the relief he sought.

We grant the Appellees' motion to dismiss the appeals. We deny Appellant's motion for 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