

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-7960

JAMES MALLARD,

Plaintiff - Appellant,

versus

BILLY L. VANDIFORD; JAMES H. HUDSON,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Malcolm J. Howard, District Judge. (CA-94-110-5-H)

Submitted: February 7, 1996

Decided: February 28, 1996

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

Dismissed by unpublished per curiam opinion.

James Mallard, Appellant Pro Se. Kenneth Ray Wooten, Cheryl A. Marteney, WARD & SMITH, P.A., New Bern, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant noted this appeal 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 September 14, 1995; Appellant's notice of appeal was filed on November 28, 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 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