

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 96-6492**

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JAMES E. GAFFNEY,

Petitioner - Appellant,

versus

S. R. WITKOWSKI, Warden; STATE OF SOUTH CAROLINA;  
ATTORNEY GENERAL OF THE STATE OF SOUTH CAROLINA,

Respondents - Appellees.

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Appeal from the United States District Court for the District of South Carolina, at Columbia. David C. Norton, District Judge. (CA-90-2645-3-18-AK)

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Submitted: September 5, 1996                      Decided: September 17, 1996

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Before WIDENER and WILKINS, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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James R. Gaffney, Appellant Pro Se. Donald John Zelenka, Chief Deputy Attorney General, Columbia, South Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.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 July 1, 1991; Appellant's notice of appeal was filed on January 30, 1996. 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 deny a certificate of appealability and 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