

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6452

OTTO DONALD WITHERSPOON,

Petitioner - Appellant,

versus

CHARLES J. CEPAK, Warden; ATTORNEY GENERAL OF
THE STATE OF SOUTH CAROLINA,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Columbia. Dennis W. Shedd, District Judge.
(CA-96-252-3-19BC)

Submitted: September 25, 1997

Decided: November 4, 1997

Before LUTTIG, MICHAEL, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Otto Donald Witherspoon, Appellant Pro Se. Donald John Zelenka,
Chief Deputy Attorney General, Lauri J. Soles, OFFICE OF THE
ATTORNEY GENERAL OF SOUTH CAROLINA, Columbia, South Carolina, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant filed an untimely notice of appeal. We dismiss for lack of jurisdiction. The time periods for filing notices of appeal are governed by Fed. R. App. P. 4. These periods 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)). Parties to civil actions have thirty days within which to file in the district court notices of appeal from judgments or final orders. Fed. R. App. P. 4(a)(1). The only exceptions to the appeal period are when the district court extends the time to appeal under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6).

The district court entered its order on December 4, 1996; Appellant's notice of appeal was filed on March 26, 1997, which is beyond the thirty-day appeal period. Appellant's failure to note a timely appeal or obtain an extension of the appeal period leaves this court without jurisdiction to consider the merits of Appellant's appeal. We therefore deny a certificate of appealability and dismiss the appeal. Appellant's motions for an injunction, for the appointment of counsel, and for summary judgment are denied. 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