

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-7163

PEDRO GARCIA QUINTERO,

Plaintiff - Appellant,

versus

NORTH CAROLINA DEPARTMENT OF CORRECTIONS,

Defendant - Appellee.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, District Judge. (CA-97-253-3-MU)

Submitted: October 20, 1997

Decided: July 20, 1998

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

Dismissed by unpublished per curiam opinion.

Pedro Garcia Quintero, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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 and judgment on May 21, 1997; Appellant's notice of appeal was filed on June 22, 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 dismiss the appeal. We dispense with oral argument because the facts and legal contentions are

* We presume for the purposes of this appeal that the date on the notice of appeal was the date it was deposited in the correctional institution's internal mail system. See Fed. R. App. P. 4(c).

adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED