

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-7739

STEWART RUSSELL BUCHANAN; JANICE A. BRADLEY,

Plaintiffs - Appellants,

versus

DAVID BEASLEY, Governor; MICHAEL W. MOORE,
Commissioner; GEORGE ROOF; CARL FREDRICKS,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Columbia. David C. Norton, District Judge.
(CA-96-1894-3-18BC)

Submitted: April 16, 1998

Decided: April 30, 1998

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

Dismissed by unpublished per curiam opinion.

Stewart Russell Buchanan, Janice A. Bradley, Appellants Pro Se.
Charles Elford Carpenter, Jr., Georgia Anna Mitchell, RICHARDSON,
PLOWDEN, CARPENTER & ROBINSON, Columbia, South Carolina, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellants filed an untimely notice of appeal. We dismiss the appeal 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 August 29, 1997; Appellants filed a timely motion for extension of time to file a Fed. R. Civ. P. 59(e) motion. The district court entered its order denying Appellants' motion on October 6, 1997. Appellants' notice of appeal was filed on November 21, 1997,* which is beyond the thirty-day appeal period. Appellants' failure to note a timely appeal or obtain an extension of the appeal period leaves this court without jurisdiction to consider the merits of Appellants' appeal. We therefore dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately

* For purposes of this appeal, we assume that the date Appellant wrote on his notice of appeal is the earliest date it would have been submitted to prison authorities. See Houston v. Lack, 487 U.S. 266 (1988).

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

DISMISSED