

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-2267

DANIEL JOHNSON WILLIS,

Plaintiff - Appellant,

and

ALBERT L. MEADOWS; LIONEL MEADOWS; ERIC LYTLE
BROWN,

Plaintiffs,

versus

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION;
GARLAND B. GARRETT, Secretary of N. C. Department
of Transportation, in his individual and
official capacities; DAN DE VANE, Assistant
Secretary of the N. C. Department of Transportation
in his individual and official capacities;
DEAN BENSON, Title Bill Program Manager,
N. C. Department of Transportation, in her individual
and official capacities; R. E. AGENT
& EMPLOYEE OF N. C. DEPARTMENT OF TRANSPORTATION,
District Engineer, N. C. Department
of Transportation, in his individual and official
capacities; ROBERT MATTOCKS, JR., Agent
and employee of N. C. Department of Transportation
in his individual and official capacities;
TOWN OF TRENTON, NORTH CAROLINA; JOFFREE
T. LEGGETT, Mayor of the Town of Trenton, NC
in his individual and official capacities;
WILLARD O. LEWIS, Town Council member, in his
individual and official capacities; EDWARD
EUBANKS, Town Council member, in his individual
and official capacities; CHARLES JONES,
Town Council member, in his individual and
official capacities; C. GLENN SPIVEY, Town

Clerk, in his individual and official capacities

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at New Bern. Terrence W. Boyle, Chief District Judge. (CA-97-137-B0)

Submitted: January 21, 1999

Decided: April 5, 1999

Before LUTTIG, MOTZ, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Daniel Johnson Willis, Appellant Pro Se. Elizabeth Nina Strickland, Gaines Montgomery Weaver, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina; Charles Christopher Henderson, Trenton, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Daniel Willis 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). Willis's appeal of the dismissal order is untimely because it was not filed within the thirty-day period and the motion for reconsideration he filed was not timely under Fed. R. Civ. P. 59, and therefore did not toll the appeals period.

The district court entered its order on March 20, 1998; Willis's notice of appeal was filed on August 10, 1998, which is beyond the thirty-day appeal period.* His failure to note a timely appeal or obtain an extension of the appeal period leaves this court without jurisdiction to consider the merits of Willis's ap-

* The notice of appeal is dated May 7, 1998, but was not entered until August 10, 1998 due to clerical error. Under either date, the notice of appeal is untimely.

peal. We therefore grant the Defendants' motion to dismiss the appeal. We deny Appellant's motions for supersedeas stay order and for expedited relief. 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