

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-2303

J. W. CLEMMER,

Defendant - Appellant,

versus

MICHAEL A. SCOTT,

Plaintiff - Appellee,

and

NORFOLK SOUTHERN CORPORATION; DAVID R. GOODE;
STEPHEN CRAIG TOBIAS; JON L. MANETTA; DONALD
W. MAYBERRY; WILLIAM E. HONEYCUTT; LEWIS D.
HALE; TIMOTHY A. HEILIG; C. D. VITTUR; D. D.
GRAAB; A. L. LUTTRELL; JERRY R. GRAY; W. F.
HENLEY; J. E. PAIR; LANDMARK COMMUNICATIONS,
INCORPORATED,

Defendants.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Henry C. Morgan, Jr., District
Judge. (CA-97-522-2)

Submitted: April 20, 1999

Decided: April 30, 1999

Before WIDENER, WILLIAMS, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Samuel Johnson Webster, Heather Ann Mullen, David Nash Payne, WILLIAMS, KELLY & GREER, Norfolk, Virginia, for Appellant. Michael A. Scott, Virginia Beach, Virginia, Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant Jerry W. Clemmer appeals from the district court's order allowing Appellee Michael A. Scott to file an untimely notice of appeal. Because we have decided the underlying appeal on the merits, see Scott v. Norfolk Southern Corp., No. 98-1098 (4th Cir. Jan. 15, 1999) (unpublished), we dismiss this appeal as moot. We dispense with oral argument because the facts and legal contentions are adequately set forth in the materials before the court and argument would not aid the decisional process.

DISMISSED