UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-1036

WALTER E. BESS, JR.; DONNA G. BESS,

Plaintiffs - Appellants,

versus

JUDGE TAYLOR; CORPORAL WAMSLEY, Badge 256;
CITY OF HUNTINGTON, WEST VIRGINIA,

Defendants - Appellees.

Appeal from the United States District Court for the Southern District of West Virginia, at Huntington. Robert C. Chambers, District Judge. (CA-98-0539)

Submitted: March 25, 1999 Decided: March 31, 1999

Before WILKINS and MOTZ, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Walter E. Bess, Jr., Donna G. Bess, Appellants Pro Se. Richard Gregory McNeer, CAMPBELL, WOODS, BAGLEY, EMERSON, MCNEER & HERNDON, Huntington, West Virginia, 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Unpublished opinions are not binding precedent in this circuit.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 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, 1998; Appellants' notice of appeal was filed on January 5, 1999, 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 presented in the materials before the court and argument would not aid the decisional process.

DISMISSED