

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 99-7341**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JIMMY LAWRENCE NANCE,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, District Judge. (CR-92-135-R)

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Submitted: December 16, 1999

Decided: December 30, 1999

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

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Dismissed by unpublished per curiam opinion.

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Jimmy Lawrence Nance, Appellant Pro Se. Thomas Linn Eckert, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jimmy Lawrence Nance seeks to appeal the district court's order denying Nance's Fed. R. Civ. P. 60(b) motion, or in the alternative, motion for reopening his previous motion filed pursuant to 28 U.S.C.A. § 2255 (West. Supp. 1999). We dismiss the appeal for lack of jurisdiction because Nance's notice of appeal was not timely filed.

Parties are accorded sixty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(b)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "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)).

The district court's order was entered on the docket on February 11, 1999. Nance's notice of appeal was filed on September 30, 1999. Because Nance failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we 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