

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-6642

DARRYL ORVETT PAYNE,

Petitioner - Appellant,

versus

RONALD J. ANGELONE, Director of the Virginia
Department of Corrections,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern Dis-
trict of Virginia, at Norfolk. Henry C. Morgan, Jr., District
Judge. (CA-99-2065-2)

Submitted: July 13, 2000

Decided: August 4, 2000

Before WIDENER, LUTTIG, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Darryl Orvett Payne, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Darryl O. Payne seeks to appeal the district court's order dismissing his 28 U.S.C.A. § 2254 (West 1994 & Supp. 2000) petition. We dismiss the appeal for lack of jurisdiction because Payne's notice of appeal was not timely filed.

Parties are accorded thirty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(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 9, 2000. Payne's notice of appeal was filed on May 5, 2000. Because Payne failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny his pending motion for appointment of counsel, deny a certificate of appealability, and 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