

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7575

HERBERT CHAVIS,

Plaintiff - Appellant,

versus

STEPHEN COLLINS; LINDA PADGETT; MARY SADLER;
DON PLOT; JOLIN METTS,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, Chief District Judge. (CA-00-186-CT-BO)

Submitted: January 31, 2002

Decided: February 7, 2002

Before NIEMEYER, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Herbert Chavis, Appellant Pro Se. Mary S. Mercer, Assistant Attorney General, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Herbert Chavis seeks to appeal the district court's order denying relief on his 42 U.S.C.A. § 1983 (West Supp. 2001) complaint. We dismiss the appeal for lack of jurisdiction because Chavis' notice of appeal was not timely filed.

Parties are accorded thirty days after the 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 July 24, 2001. Chavis' notice of appeal was filed on September 1, 2001.* Because Chavis 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 mate-

* For the purpose of this appeal we assume that the date appearing on the notice of appeal is the earliest date it could have been given to prison officials for mailing. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

rials before the court and argument would not aid the decisional process.

DISMISSED