

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-7621

THOMAS HERBERT TAYLOR,

Petitioner - Appellant,

versus

G. L. WOODARD,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Malcolm J. Howard, District Judge. (CA-98-419-5-HO)

Submitted: February 21, 2002

Decided: March 4, 2002

Before WILKINS, MOTZ, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Thomas Herbert Taylor, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Thomas Herbert Taylor seeks to appeal the district court's order dismissing his habeas petition. We dismiss this appeal for lack of jurisdiction because Taylor'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 Corr., 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 October 23, 1998. Taylor's notice of appeal was filed on August 23, 2001. Because Taylor failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We also deny Taylor's motion for an order directing DNA testing. We dispense with oral argument because the facts and legal contentions

* We further note that this court has previously dismissed an appeal of this same order on the merits. Taylor v. Woodard, No. 98-7688 (4th Cir. Mar. 31, 1999) (unpublished).

are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED