

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-1655**

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JAMES HARRY MCCARTY,

Plaintiff - Appellant,

versus

UNITED STATES SOCIAL SECURITY COMMISSION,

Defendant - Appellee.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, Chief District Judge. (CA-97-980-5-BO)

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Submitted: October 23, 2003

Decided: October 29, 2003

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Before WILLIAMS, MOTZ, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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James Harry McCarty, Appellant Pro Se. Barbara Dickerson Kocher, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

James Harry McCarty seeks to appeal the district court's order granting McCarty's motion for attorney's fees in his social security case. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

When the United States or its officer or agency is a party, the notice of appeal must be filed no more than sixty days after the entry of the district court's final judgment or order, Fed. R. App. P. 4(a)(1)(B), 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. Dir., 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 January 16, 2003. The notice of appeal was filed on May 28, 2003. Because McCarty failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We further deny McCarty's former counsel's motion for leave to file reply to McCarty's informal brief and deny as moot McCarty's motion to extend time to file his informal brief. 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