

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7079

JOSHUA BERNARD JOHNS,

Plaintiff - Appellant,

versus

SERGEANT A. BARNETT, Security Officer; A.
DAVID ROBINSON, Warden; WILLIAM P. ROGERS,
Regional Director; ELIZA S. WILLIS, Treatment
Program Supervisor; MAJOR DOUG VAUGHAN, Chief
of Security; EDWARD L. DAVIS, Institutional
Investigator,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Leonie M. Brinkema, District
Judge. (CA-04-228)

Submitted: August 18, 2004

Decided: September 7, 2004

Before WILKINSON, MICHAEL, and TRAXLER, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joshua Bernard Johns, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Joshua Bernard Johns seeks to appeal the district court's order dismissing his 42 U.S.C. § 1983 (2000) action without prejudice for failure to exhaust state administrative remedies. We dismiss the appeal for lack of jurisdiction because the 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, Fed. R. App. P. 4(a)(1)(A), 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 May 19, 2004. Johns' notice of appeal was dated June 21, 2004, and filed on June 22, 2004. Under any calculation, then, the notice of appeal was untimely. Because Johns 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