

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7226

JOSEPH KEVIN ZORUMSKI, JR.,

Petitioner - Appellant,

versus

DANIEL A. BRAXTON,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (CA-02-83-2)

Submitted: November 5, 2004

Decided: November 22, 2004

Before MOTZ and SHEDD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Joseph Kevin Zorumski, Jr., Appellant Pro Se. Leah Ann Darron, Assistant Attorney General, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Joseph Kevin Zorumski, Jr., seeks to appeal the district court's order dismissing as untimely his petition filed under 28 U.S.C. § 2254 (2000). 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 7, 2004. The notice of appeal was, at the earliest, filed on July 15, 2004. Because Zorumski failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny Zorumski's motion for leave to proceed in forma pauperis, deny his motion for transcripts at government expense, 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