

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-7387**

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JERRY EUGENE COLEMAN,

Petitioner - Appellant,

versus

COMMONWEALTH OF VIRGINIA,

Respondent - Appellee.

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Appeal from the United States District Court for the Western  
District of Virginia, at Roanoke. Glen E. Conrad, District Judge.  
(CA-04-305-7)

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Submitted: December 16, 2004

Decided: December 23, 2004

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Before MICHAEL, KING, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Jerry Eugene Coleman, Appellant Pro Se. Josephine Frances Whalen,  
OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jerry Eugene Coleman seeks to appeal the district court's order denying relief without prejudice on 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 July 15, 2004. The notice of appeal was filed, at the earliest, on August 20, 2004. Because Coleman 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