

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-2381

JOSEPH BURCH,

Plaintiff - Appellant,

versus

PHILIP MORRIS USA, INCORPORATED,

Defendant - Appellee.

No. 05-2382

JOSEPH BURCH,

Plaintiff - Appellant,

versus

PHILIP MORRIS USA, INCORPORATED, a
corporation,

Defendant - Appellee.

Appeals from the United States District Court for the Middle
District of North Carolina, at Greensboro. William L. Osteen,
District Judge. (CA-04-1032-1-WLO; CA-02-1124-1)

Submitted: May 19, 2006

Decided: June 29, 2006

Before NIEMEYER, MOTZ, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Joseph Burch, Appellant Pro Se. Wood Walter Lay, Eric Michael David Zion, Jacqueline M. Yount, HUNTON & WILLIAMS, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Joseph Burch filed two civil actions against Philip Morris USA, Inc. In Burch's first lawsuit, the district court adopted the magistrate judge's report and denied relief in January 2004. Burch moved to rescind the district court's order, but that motion was denied in June 2005. Burch's appeal was assigned No. 05-2382. In Burch's second action, the district court denied relief in June 2005.* Burch's appeal was assigned No. 05-2381. Both notices of appeal were filed on December 5, 2005.

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. 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 subsequently granted Philip Morris's motion for sanctions in September 2005. Burch moved to pay the sanctions in installments, and by order dated November 18, 2005, the district court directed Burch to provide proof of indigency by December 5, 2005, and provided that the sanction would be payable in full on December 15, 2005, if Burch did not comply. Burch never responded to the district court's November 18 order to provide an affidavit in support of his need for an installment payment plan, and therefore, pursuant to its terms, the order was reduced to a judgment for the full amount of the sanction on December 15, 2005. Burch does not challenge the sanctions order in his informal brief on appeal, so he has waived appellate review of that order. See 4th Cir. R. 34(b).

Because Burch failed to file a timely notice of appeal or obtain an extension or reopening of the appeal period in either case, we dismiss the appeals. We deny his motions for appointment of counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not assist in the decisional process.

DISMISSED