

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-6867**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LODERGUS DANIEL WILKINS,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Spartanburg. Henry M. Herlong, Jr., District Judge. (CR-00-483; CA-05-448-7)

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Submitted: September 27, 2005

Decided: October 3, 2005

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Before LUTTIG, MOTZ, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Lodergus Daniel Wilkins, Appellant Pro Se. Elizabeth Jean Howard, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Lodergus Daniel Wilkins seeks to appeal the district court's order dismissing his 28 U.S.C. § 2255 (2000) motion as untimely filed. 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. 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 March 3, 2005. The notice of appeal was filed on May 24, 2005.\* Because Wilkins failed to file a timely notice of appeal or 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

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\*We have given Wilkins the benefit of the ruling in Houston v. Lack, 487 U.S. 266 (1988), in determining the date on which he filed his materials in the district court.