

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 97-4142**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

AMEER G. MIKHAIL,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. Marvin J. Garbis, District Judge. (CR-94-407-MJG)

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Submitted: August 28, 1997

Decided: September 12, 1997

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Before WILKINS, WILLIAMS, and MICHAEL, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Ameer G. Mikhail, Appellant Pro Se. Andrew George Warrens Norman, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant filed an untimely notice of appeal. We dismiss for lack of jurisdiction. The time periods for filing notices of appeal are governed by Fed. R. App. P. 4. These periods are "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). Parties to criminal actions have ten days within which to file in the district court notices of appeal from judgments or final orders. Fed. R. App. P. 4(b). The only exception to the appeal period is when the district court extends the time to appeal on a showing of excusable neglect. See id.

The district court entered its order on January 16, 1997; Appellant's notice of appeal was filed on February 10, 1997, which is beyond the ten-day appeal period. Appellant's failure to note a timely appeal or obtain an extension of the appeal period leaves this court without jurisdiction to consider the merits of Appellant's appeal. We therefore 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