

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-4762

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WITHROW WILSON,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Shelby. Lacy H. Thornburg, District Judge. (CR-96-53)

Submitted: August 27, 1998

Decided: September 10, 1998

Before NIEMEYER and HAMILTON, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Rion Brady, Archdale, North Carolina, for Appellant. Mark T. Calloway, United States Attorney, Deborah A. Ausburn, Assistant United States Attorney, Richard L. Harrison, Third-Year Law Student, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Withrow Wilson filed an untimely notice of appeal. We dismiss the appeal 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)). In a criminal case a defendant has 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 district court entered its judgment on May 5, 1997. Wilson's notice of appeal was filed on September 16, 1997. Appellant's failure to file a timely notice of appeal or to obtain an extension of the appeal period leaves this court without jurisdiction to consider the merits of his 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