

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6048

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DELONTE FITZGERALD DAVAGE,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Peter J. Messitte, District Judge. (CR-95-77-PJM, CA-96-1909-PJM)

Submitted: June 19, 1997

Decided: June 27, 1997

Before WILKINS and MICHAEL, Circuit Judges, and BUTZNER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Delonte Fitzgerald Davage, Appellant Pro Se. Robert Mason Thomas, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant filed an untimely notice of appeal. We deny a certificate of appealability and 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)). Parties to civil actions in which the United States is a party have sixty days within which to file in the district court notices of appeal from judgments or final orders. Fed. R. App. P. 4(a)(1). The only exceptions to the appeal period are when the district court extends the time to appeal under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6).

The district court entered its order on August 23, 1996; Appellant's notice of appeal was filed on December 26, 1996, which is beyond the sixty-day period. Appellant's failure to file a timely notice of appeal or to obtain either an extension or a reopening 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