

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 98-2710**

---

BARRY K. MCCLAMROCK,

Plaintiff - Appellant,

and

CARLTON M. DEVORE,

Plaintiff,

versus

CONCORD, NORTH CAROLINA CITY, a North Carolina  
Municipal Corporation; WILLIAM MORRISON,

Defendants - Appellees.

---

Appeal from the United States District Court for the Middle Dis-  
trict of North Carolina, at Greensboro. Russell A. Eliason, Magis-  
trate Judge. (CA-95-223-4)

---

Submitted: April 20, 1999

Decided: June 7, 1999

---

Before NIEMEYER and LUTTIG, Circuit Judges, and HALL, Senior Cir-  
cuit Judge.

---

Dismissed in part and affirmed in part by unpublished per curiam  
opinion.

---

Barry K. McClamrock, Appellant Pro Se. Anne E. Essaye, KILPATRICK STOCKTON, L.L.P, Charlotte, North Carolina, for Appellees.

---

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Barry McClamrock appeals the magistrate judge's orders\* denying him an extension of time to appeal and denying reconsideration. The magistrate judge denied an extension of time by order dated September 1, 1998. McClamrock had thirty days to appeal from this order under Federal Rule of Appellate Procedure 4(a)(1). This time period is mandatory and jurisdictional. See Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978).

McClamrock filed his notice of appeal on October 20, 1998. Because he failed to timely appeal, or obtain an extension of the appeal period under Fed. R. App. P. 4(a)(5) or (6), we lack jurisdiction to consider his appeal to the extent he seeks review of the magistrate judge's September order. While McClamrock's appeal is timely as to the magistrate judge's order denying reconsideration, we find that the magistrate judge did not abuse his discretion by denying the motion. See NOW v. Operation Rescue, 47 F.3d 667, 669 (4th Cir. 1995) (discussing standard for reviewing motions filed under Federal Rule of Civil Procedure 60(b)). Accordingly, we affirm the magistrate judge's order denying reconsideration. We dispense with oral argument because the facts and legal contentions

---

\* The parties consented to the jurisdiction of the magistrate judge pursuant to 28 U.S.C. § 636(c) (1994).

are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED IN PART; AFFIRMED IN PART