

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-6310

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ARNOLD MARK HENRY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry C. Morgan, Jr., District Judge. (CR-93-131)

Submitted: August 13, 1998

Decided: September 2, 1998

Before WIDENER and WILKINS, Circuit Judges, and HALL, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Arnold Mark Henry, Appellant Pro Se. Robert Joseph Seidel, Jr., Assistant United States Attorney, Arenda L. Wright Allen, Assistant United States Attorney, Kevin Michael Comstock, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Arnold Mark Henry 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 civil actions 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 April 3, 1997; Henry's notice of appeal was filed on February 9, 1998, which is beyond the sixty-day appeal period. Henry'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 Henry'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