UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-7671

CHARLES B. KEATON,

Plaintiff - Appellant,

versus

ATTORNEY GENERAL OF NORTH CAROLINA,

Respondent - Appellee.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. Frank W. Bullock, Jr., Chief District Judge. (CA-97-811-1)

Submitted: January 7, 1999 Decided: January 26, 1999

Before WIDENER, MURNAGHAN, and ERVIN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Charles B. Keaton, Appellant Pro Se. Clarence Joe DelForge, III, OFFICE OF THE ATTORNEY GENERAL OF NORTH CAROLINA, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Charles B. Keaton 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 thirty 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 17, 1998; Keaton's notice of appeal was filed on November 6, 1998, which is beyond the thirty-day appeal period. His failure to note a timely appeal or obtain an extension of the appeal period leaves this court without jurisdiction to consider the merits of Keaton's appeal. We therefore deny a certificate of appealability, deny leave to proceed in forma pauperis, and 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