

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-6545

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL SINDRAM,

Defendant - Appellant.

No. 99-6830

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL SINDRAM,

Defendant - Appellant.

No. 99-7046

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL SINDRAM,

Defendant - Appellant.

Appeals from the United States District Court for the District of Maryland, at Baltimore. Herbert N. Maletz, Senior Judge, sitting by designation. (CR-96-111-DKC, CA-98-2872-HNM)

Submitted: October 7, 1999

Decided: October 14, 1999

Before MURNAGHAN, LUTTIG, and MOTZ, Circuit Judges.

No. 99-6545 dismissed, No. 99-6830 affirmed, and No. 99-7046 affirmed by unpublished per curiam opinion.

Michael Sindram, Appellant Pro Se. Hollis Raphael Weisman, Assistant United States Attorney, Greenbelt, Maryland; Tamera Lynn Fine, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

In these consolidated appeals, Michael Sindram appeals the district court's orders denying his 28 U.S.C.A. § 2255 (West Supp. 1999) motion (No. 99-6545), denying his motion for return of property (No. 99-6830), and denying his motion to reduce his fine and term of supervised release or, in the alternative, to expunge his conviction, due to his post-conviction rehabilitative progress (No. 99-7046). We dismiss No. 99-6545 and affirm Nos. 99-6830 and 99-7046.

In No. 99-6545, Sindram 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)). 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. See 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 28, 1998;¹ Sindram's notice of appeal was filed on April 5, 1999.² Sindram'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 his appeal. We therefore deny a certificate of appealability and dismiss the appeal. We also deny Sindram's motion for appointment of counsel.

In No. 99-6830, we find that the district court did not abuse its discretion in denying the motion for return of property. In No. 99-7046, the district court properly denied Sindram's motion to modify his sentence or, in the alternative, expunge his conviction. Accordingly, as to these orders we affirm on the reasoning of the district court. See United States v. Sindram, No. CR-96-111-DKC (D. Md. May 26 & July 19, 1999).

¹ Although the district court order is marked as "filed" on August 26, 1998, the district court's records show that it was entered on the docket sheet on August 28, 1998. Pursuant to Rules 58 and 79(a) of the Federal Rules of Civil Procedure, it is the date that the order was entered on the docket sheet that we take as the effective date of the district court's decision. See Wilson v. Murray, 806 F.2d 1232, 1234-35 (4th Cir. 1986).

² For the purposes of this appeal we assume that the date Sindram wrote on the notice of appeal is the earliest date it would have been submitted to prison authorities. See Houston v. Lack, 487 U.S. 266 (1988).

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.

No. 99-6545 - DISMISSED

No. 99-6830 - AFFIRMED

No. 99-7046 - AFFIRMED