

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1716

JOSEPH F. GUTHRIE; KELLY PITTMAN GUTHRIE,

Plaintiffs - Appellees,

v.

ANTHONY EMERSON FLANAGAN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, Senior District Judge. (3:07-cv-00479-REP)

Submitted: December 15, 2009

Decided: December 31, 2009

Before WILKINSON, NIEMEYER, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Anthony Emerson Flanagan, Appellant Pro Se. Joseph F. Guthrie, Kelly Pittman Guthrie, Appellees Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Anthony Flanagan seeks to appeal the district court's orders entering judgment in favor of the Appellees on their claims of legal malpractice and denying his Fed. R. Civ. P. 60(b) motion for relief from that judgment. We conclude that we lack jurisdiction over the district court's order entering judgment against Flanagan and we affirm the court's order denying Flanagan's Rule 60(b) motion.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is mandatory and jurisdictional. Bowles v. Russell, 551 U.S. 205, 208-13 (2007); see also United States v. Urutyan, 564 F.3d 679, 685 (4th Cir. 2009). Moreover, a motion for reconsideration under Rule 60(b) does not bring up for review the merits of the underlying substantive judgment, nor does it toll the period for filing an appeal of the underlying judgment. Browder v. Dir., Dep't of Corr., 434 U.S. 257, 263 n.7 (1978).

Here, the district court's judgment was entered on the docket on August 22, 2008. Although Flanagan initially filed a timely notice of appeal of that order, he voluntarily dismissed that appeal. Following the district court's denial of

Flanagan's Rule 60(b) motion on May 20, 2009, Flanagan filed a notice of appeal on June 18, 2009. Although this notice is timely as to the district court's May 20, 2009 order, it is well out of time as to the court's August 22, 2008 judgment. Accordingly, as Flanagan failed to file a timely notice of appeal of the district court's August 22, 2008 judgment, and failed to obtain an extension or reopening of the appeal period, this court does not have jurisdiction over that order.

With respect to the court's order denying Flanagan's Rule 60(b) motion, we confine our review to the issues raised in the informal brief. See 4th Cir. R. 34(b). Flanagan's brief alleges no error committed by the district court in denying his Rule 60(b) motion. Accordingly, we affirm the district court's order. 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.

AFFIRMED