UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1023

GLEN E. SHREWSBURY,

              Plaintiff - Appellant,

        v.

MICHAEL J. ASTRUE, Commissioner of Social Security,

              Defendant - Appellee.

Appeal from the United States District Court for the Southern
District of West Virginia, at Bluefield. R. Clarke VanDervort,
Magistrate Judge. (1:08-cv-00840)

Submitted: May 20, 2010   Decided: May 26, 2010

Before WILKINSON, NIEMEYER, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Glen E. Shrewsbury, Appellant Pro Se. Lori Riye Karimoto,
Assistant Regional Counsel, Philadelphia, Pennsylvania; Fred B.
Westfall, Jr., Assistant United States Attorney, Charleston,
West Virginia, for Appellee.

PER CURIAM:

Glen E. Shrewsbury seeks to appeal the magistrate judge's order affirming the final decision of the Commissioner of Social Security that Shrewsbury is not entitled to benefits. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

When the United States or its officer or agency is a party, the notice of appeal must be filed no more than sixty days after the entry of the district court's final judgment or order, Fed. R. App. P. 4(a)(1)(B), 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." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on September 30, 2009. The notice of appeal was filed on December 4, 2009. See Fed. R. App. P. 4(d). Because Shrewsbury failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we 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