

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7319

JOHN LEE BOYD, JR.,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA; TERRY O'BRIEN, Warden of USP-Hazelton; GILLEY, Captain of USP-Hazelton; POISSONNIER, Lieutenant of USP-Hazelton; HELMS, No. 1 Morning Watch Correctional Officer; OSBORNE, No. 2 Morning Watch Correctional Officer; PRICE, No. 1 Morning Watch Correctional Officer; ALLEN, Captains Secretary; HOSKIN, No. 1 Morning Watch Correctional Officer; STAUFFER, Lieutenant of USP-Hazelton,

Defendants - Appellees.

Appeal from the United States District Court for the Northern District of West Virginia, at Elkins. John Preston Bailey, District Judge. (2:13-cv-00064-JPB-MJA)

Submitted: February 23, 2017

Decided: February 27, 2017

Before SHEDD and DIAZ, Circuit Judges, and DAVIS, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

John Lee Boyd, Jr., Appellant Pro Se. Betsy C. Jividen, Erin Carter Tison, Assistant United States Attorneys, Wheeling, West Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Lee Boyd, Jr., seeks to appeal the district court's order adopting the magistrate judge's recommendation and denying relief on his action filed pursuant to Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971). 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 60 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). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 214 (2007).

The district court's order was entered on the docket on July 26, 2016. The notice of appeal was filed on September 29, 2016. Because Boyd failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny leave to proceed in forma pauperis, deny Boyd's motion for preparation of a transcript at government expense, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials

before this court and argument would not aid the decisional process.

DISMISSED