

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6247

FRANK LATHAN HINTON,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA; US MARSHAL'S OFFICE;
UNITED STATES DEPARTMENT OF JUSTICE; BUREAU OF
PRISONS,

Respondents - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Rebecca Beach Smith, District
Judge. (2:05-cv-00453-RBS)

Submitted: July 20, 2006

Decided: July 26, 2006

Before WIDENER and WILKINSON, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Frank Lathan Hinton, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Frank Lathan Hinton seeks to appeal the district court's judgment dismissing without prejudice his 28 U.S.C. § 2241 (2000) petition and the order denying his motion for reconsideration. 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 judgment was entered September 13, 2006, and the order denying reconsideration was entered September 20, 2005. The notice of appeal was filed on February 3, 2006.* Because Hinton 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

*For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED