

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7699

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAY LEE CASON,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Lacy H. Thornburg, District Judge. (1:03-cr-00005-LHT; 1:06-cv-00301)

Submitted: October 21, 2008

Decided: October 23, 2008

Before MICHAEL, TRAXLER, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ray Lee Cason, Appellant Pro Se. Donald David Gast, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ray Lee Cason seeks to appeal the district court's order denying relief on his motion under 28 U.S.C. § 2255 (2000). 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) (internal quotation marks and citations omitted). Accord Bowles v. Russell, 127 S. Ct. 2360 (2007).

The district court's order was entered on the docket on May 25, 2007. In a September 11, 2007, order, the court reopened the time for filing an appeal for fourteen days following the entry of the order. The notice of appeal was filed on November 19, 2007, after the reopened appeal period expired. Because Cason failed to file a timely notice of appeal and no authority permits the court to further extend or reopen 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