

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-1218**

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MARIANO H. OSPINA,

Debtor - Appellant,

v.

INDYMAC BANK,

Creditor - Appellee.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, Senior District Judge. (3:06-cv-00473-GCM)

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Submitted: July 31, 2008

Decided: August 4, 2008

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Before NIEMEYER, TRAXLER, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Mariano H. Ospina, Appellant Pro Se. Kristin Pickett Herber, John Bucher Isbister, TYDINGS & ROSENBERG, Baltimore, Maryland; Kimberly Ann Sheek, SHAPIRO & INGLE, LLP, Charlotte, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mariano H. Ospina seeks to appeal the district court's orders dismissing as moot his appeal from the bankruptcy court's order granting IndyMac Bank's motion for relief from the automatic stay and denying reconsideration. IndyMac has moved to dismiss the appeal. Upon review of the record, we grant the motion and dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

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." 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 final order was entered on the docket on October 26, 2007. The notice of appeal was filed on January 29, 2008. Because Ospina failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we grant IndyMac's motion to 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