

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6970

In Re: JOSEPH MARION HEAD, JR.,

Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Asheville. Lacy H. Thornburg,
District Judge. (1:06-cv-00215-LHT)

Submitted: November 19, 2008

Decided: January 28, 2009

Before MOTZ and TRAXLER, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Joseph Marion Head, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joseph Marion Head, Jr., seeks to appeal the district court's order imposing a prefiling injunction. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

In cases in which the United States is not a party, 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). If the district court's final judgment or order is not set forth in a separate document, the notice of appeal must be filed within 150 days of the judgment or order. Fed. R. App. P. 4(a)(7)(A)(ii). The appeal periods are "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 district court's docket on July 20, 2006. Because there was no separate entry of judgment, Head's notice of appeal was due within 150 days. The notice of appeal was not filed, however, until March 17, 2008. Because Head failed to file a timely notice of

appeal* or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We deny leave to proceed in forma pauperis and deny the "Motion to Allow Cost of Filing Fees to be Legally Paid by Appellant from his Veteran Benefits." 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

* Head claims that he did not receive a copy of the district court's order until February 2008. This does not affect the running of the appeal period. See Fed. R. Civ. P. 77(d).