

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8548

KENYATTA HUNTER,

Petitioner - Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

Respondent - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Florence. Cameron McGowan Currie, District Judge. (4:08-cv-02174-CMC)

Submitted: March 17, 2009

Decided: March 24, 2009

Before TRAXLER, KING, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Kenyatta Hunter, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenyatta Hunter seeks to appeal the district court's order accepting the magistrate judge's recommendation and dismissing without prejudice Hunter's 28 U.S.C. § 2241 (2006) petition. We dismiss the appeal for lack of jurisdiction because Hunter's notice of appeal was not timely filed.

Parties are accorded thirty days after 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 order was entered on the docket on September 29, 2008. Hunter's notice of appeal was filed on December 11, 2008, the day on which he delivered it to prison officials for mailing. See Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266, 276 (1988). Because Hunter 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 legal contentions are

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

DISMISSED