

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1507

RAY A. COLE,

Plaintiff - Appellant,

v.

TEAMSTERS LOCAL 391; DONNY BROWN,

Defendants - Appellees.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Thomas David Schroeder, District Judge. (1:08-cv-00499-TDS-WWD)

Submitted: November 16, 2009

Decided: December 30, 2009

Before WILKINSON, SHEDD, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Ray A. Cole, Appellant Pro Se. J. David James, SMITH, JAMES, ROWLETT & COHEN, LLP, Greensboro, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ray A. Cole seeks to appeal the district court's order adopting the recommendation of the magistrate judge and dismissing his civil action against Teamsters Local 391 and Donny Brown. We 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. Bowles v. Russell, 551 U.S. 205, 214 (2007); see United States v. Urutyan, 564 F.3d 679, 685 (4th Cir. 2009) (discussing Bowles and the appeal periods under Fed. R. App. P. 4(a)).

The district court's order was entered on the docket on March 30, 2009. Accordingly, in order for Cole's appeal to be timely, it must have been filed by April 29, 2009. Cole did not file a notice of appeal until April 30, 2009. Because Cole failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny leave to proceed in forma pauperis and 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