UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-1673

JOE E. HINES,

Plaintiff - Appellant,

v.

NORTHERN WEST VIRGINIA OPERATIONS; CONSOL ENERGY, INCORPORATED; CONSOLIDATION COAL COMPANY; LOVERIDGE MINE #22; BRENT MCCLAIN; PAM COFFMAN; HELEN BLEVINS; LYNN WAGONER,

Defendants - Appellees.

Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. Frederick P. Stamp, Jr., Senior District Judge. (1:08-cv-00144-FPS)

Submitted: December 8, 2009 Decided: January 5, 2010

Before MICHAEL and AGEE, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Joe E. Hines, Appellant Pro Se. Larry Joseph Rector, STEPTOE & JOHNSON, LLP, Clarksburg, West Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joe E. Hines seeks to appeal the district court's orders granting summary judgment for some of the Appellees on his civil rights claims and dismissing his claims against the remaining Appellee for failure to effect service of process. 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." 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 May 12, 2009. The notice of appeal was filed on June 12, 2009, one day out of time. Because Hines failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal for lack of jurisdiction. 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