UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-7231

MATTHEW DAVIS,

Petitioner - Appellant,

v.

TRACY W. JOHNS, Warden,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, District Judge. (5:10-hc-02189-FL)

Submitted: December 15, 2011   Decided: December 20, 2011

Before GREGORY, SHEDD, and DAVIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Matthew Davis, Appellant Pro Se. William Ellis Boyle, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

PER CURIAM:

Matthew Davis seeks to appeal the district court's order dismissing without prejudice his 28 U.S.C. § 2241 (2006) petition. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

When the United States or its officer or agency is a party, the notice of appeal must be filed no more than sixty days after the entry of the district court's final judgment or order, Fed. R. App. P. 4(a)(1)(B), 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). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 214 (2007).

The district court's order was entered on the docket on July 7, 2011. The notice of appeal was filed on September 7, 2011, one day outside of the appeal period.[*] Because Davis 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

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[*] The record indicates that Davis delivered the notice of appeal to prison officials for mailing to the court on September 7, 2011. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

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

<div align="right">DISMISSED</div>