**UNPUBLISHED**

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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**No. 04-7341**

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GEORGE MILLER,

Petitioner - Appellant,

versus

HOWARD PAINTER, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the Northern District of West Virginia, at Elkins. Robert E. Maxwell, Senior District Judge. (CA-99-135)

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Submitted: December 16, 2004 Decided: December 22, 2004

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Before MICHAEL, KING, and SHEDD, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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George Miller, Appellant Pro Se. Dawn Ellen Warfield, OFFICE OF THE ATTORNEY GENERAL OF WEST VIRGINIA, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Based on his informal brief, it appears that George Miller, a state inmate, seeks to appeal the state trial court's October 26, 1998, order denying post-conviction relief. We dismiss for lack of jurisdiction. See 28 U.S.C. §§ 1291-96 (2000). To the extent that Miller seeks to appeal the district court's order denying his 28 U.S.C. § 2254 (2000) petition, 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 April 17, 2003. The notice of appeal was filed, at the earliest, on August 18, 2004. Because Miller 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