

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

April 2, 2018

FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

CALVIN JOHNSON, JR.,

Plaintiff - Appellant,

v.

TOOHEY, Case Manager; SCOTT,
Captain; DORCEY, Lieutenant; KOENIG,
Sergeant; CROWDER, Sergeant,

Defendants - Appellees.

No. 18-1097
(D.C. No. 1:18-CV-00379-GPG)
(D. Colo.)

CALVIN JOHNSON, JR.,

Plaintiff - Appellant,

v.

SERGEANT KOENIG; SERGEANT
OVERTURF; SERGEANT CROWDER;
CAPTAIN SCOTT; JOHN DOE,
(maintenance supervisor); JOHN DOE,
(12-26-2017 Shift Commander);
LIEUTENANT RICHIE,

Defendants - Appellees.

No. 18-1098
(D.C. No. 1:18-CV-00195-GPG)
(D. Colo.)

CALVIN JOHNSON, JR.,

Plaintiff - Appellant,

v.

LEWIS, Sergeant, Jane Doe; RICK

No. 18-1103
(D.C. No. 1:18-CV-00194-KLM)
(D. Colo.)

RAEMISCH; GORDAN P.
GALLAGHER; AUCOIN, Sergeant, John
Doe; LITTLE, Captain; WINGERT,
Lieutenant; GLISSMAN, Lieutenant,

Defendants - Appellees.

CALVIN JOHNSON, JR.,

Plaintiff - Appellant,

v.

LIEUTENANT SOUCIE; LIEUTENANT
GLISSMAN; LIEUTENANT WINGERT;
LIEUTENANT LUSK; LIEUTENANT
RODRIGUEZ; OFFICER MARR;
OFFICER NORMAN; OFFICER
LUCERO; OFFICER REYES; OFFICER
SALAZAR; JOHN DOE, (First Shift) (2
John Does); JANE DOE, (First Shift),

Defendants - Appellees.

No. 18-1104
(D.C. No. 1:17-CV-03093-GPG)
(D. Colo.)

ORDER

Before **TYMKOVICH**, Chief Judge, **MATHESON**, and **PHILLIPS**, Circuit Judges.

We raise sua sponte the question of whether this court has jurisdiction to consider these four appeals. *Amazon, Inc. v. Dirt Camp, Inc.*, 273 F.3d 1271, 1274 (10th Cir. 2001) (noting that we have an independent duty to examine our own jurisdiction).

On March 14, 2018, the clerk of this court received five misdirected notices of appeal from Calvin Johnson. Pursuant to Federal Rule of Appellate Procedure 4(d), the

clerk forwarded the notices to the district court for filing, and five new appeals were opened. Four of the notices do not designate any order as the subject of the appeal.

Rather, Mr. Johnson noted on the notices that he did not know how to fill out the form, and he suggested the court look up the case number in the computer.

Federal Rule of Appellate Procedure 3(c)(1)(B) requires that the notice of appeal “designate the judgment, order, or part thereof being appealed.” “Rule 3’s dictates are jurisdictional in nature, and their satisfaction is a prerequisite to appellate review.” *Smith v. Barry*, 502 U.S. 244, 248 (1992). A litigant’s pro se status does not excuse him from complying with the fundamental requirements of the Federal Rules of Appellate Procedure. *Ogden v. San Juan County*, 32 F.3d 452, 455 (10th Cir. 1994). While this court will construe a pro se litigant’s pleadings liberally, we will not act as his advocate. *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). Because the notices of appeal for the four above-captioned cases do not satisfy Rule 3, we lack jurisdiction to consider these four appeals.¹

In addition, we note that this is not the first time that Mr. Johnson has submitted a deficient misdirected notice of appeal to this court. In appeal No. 18-1027, this court ordered Mr. Johnson to show cause why the appeal should not be summarily dismissed due to an insufficient notice of appeal. That appeal was dismissed for failure to prosecute when Mr. Johnson did not respond to the show cause order. Similarly, appeal No. 18-

¹ The fifth misdirected notice of appeal did identify the order being appealed in D. Colo. No. 17-CV-03065-LTB and that appeal is not the subject of this dismissal order.

1072 was summarily dismissed for lack of jurisdiction on March 6, 2018 due to an insufficient notice of appeal.

Mr. Johnson's persistent failure to comply with Fed. R. App. P. 3(c)(1)(B) has resulted in a waste of judicial and administrative resources. Accordingly, subject to an opportunity for Mr. Johnson to file written objections, we will direct the clerk of this court not to transmit any future misdirected notice of appeal to the district court that does not designate the judgment or order being appealed. *Tripati v. Beaman*, 878 F.2d 351, 352-54 (10th Cir. 1989) (noting the court's inherent authority to regulate the activities of abusive litigants by imposing carefully tailored restrictions under the appropriate circumstances). Rather, the clerk shall return any such insufficient notice of appeal to Mr. Johnson with a notation that the notice was not forwarded to the district court for failure to designate the judgment or order being appealed.

Mr. Johnson shall have **ten days from the date of this order** to file written objections to the directive we propose to give our clerk. If no objections are filed, or the court does not find the objections persuasive, the directive shall take effect twenty days from the date of this order. The directive will apply to any misdirected notice of appeal received from Mr. Johnson after that time.

APPEALS DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Counsel to the Clerk