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UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

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June 29, 2005

Elizabeth H. Paret
U. S. DISTRICT COURT
Room 193
Walter E. Hoffman Courthouse
600 Granby Street
Norfolk, VA 23510

Re: 05-6145 Brooks v. Bird
CA-04-593

Dear Clerk:

Enclosed is an opinion of this Court remanding the case for limited purpose. The record on appeal is being returned for the district court's use. Please return the record, as supplemented, to this Court after completing the determination on remand.

Yours truly,

PATRICIA S. CONNOR
Clerk

/s/ Alecia F. Dohnal

By: _____
Deputy Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6145

JAY MIKAL BROOKS,

Plaintiff - Appellant,

versus

BIRD, Deputy; FITZGERALD, Sargeant; DEPUTY
BATCH, Classification Officer,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of Virginia, at Norfolk. Raymond A. Jackson, District
Judge. (CA-04-593)

Submitted: June 23, 2005

Decided: June 29, 2005

Before WIDENER, MICHAEL, and TRAXLER, Circuit Judges.

Remanded by unpublished per curiam opinion.

Jay Mikal Brooks, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jay Mikal Brooks seeks to appeal from the district court's order dismissing his complaint filed pursuant to 42 U.S.C. § 1983 (2000). The district court dismissed Brooks' complaint by an order entered on December 9, 2004. On January 27, 2005, the district court received a letter expressing Brooks' wish to appeal the order. Brooks stated that he had been in transit in the federal prison system and only learned of the dismissal of his case when he informed the district court of his new address. He submitted that the jail where he was originally confined did not forward his mail.

Brooks' notice of appeal was made within the period of time applicable for a determination of excusable neglect or good cause under Fed. R. App. P. 4(a)(5), and expressed a desire to preserve his appeal. See Myers v. Stephenson, 781 F.2d 1036, 1038-39 (4th Cir. 1986). Accordingly, we remand this case to the district court for the limited purpose of permitting that court to determine whether Brooks has shown excusable neglect or good cause warranting an extension of time for filing a notice of appeal. The record, as supplemented, then will be returned to this court for further consideration.

REMANDED