UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-2294

ALFONZA SIMMONS,

Plaintiff - Appellant,

v.

OFFICER CRAIG SMITH,

Defendant - Appellee,

and

IAN D. MCVEY,

Trustee.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Henry M. Herlong, Jr., Senior District Judge. (3:09-cv-01176-HMH)

Submitted: February 26, 2013 Decided: February 28, 2013

Before MOTZ, WYNN, and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Alfonza Simmons, Appellant Pro Se. Christy L. Scott, SCOTT & PAYNE LAW FIRM, Walterboro, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

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PER CURIAM:

Alfonza Simmons seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his 42 U.S.C. § 1983 (2006) complaint. 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). "[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 August 15, 2012. The notice of appeal was filed on October 18, 2012. Because Simmons failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny leave to proceed in forma pauperis and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED