

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6937

MR. DOUGLAS M. ROSEBY,

Plaintiff - Appellant,

v.

MR. PAUL E. BUDLOW, et al.,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Alexander Williams, Jr., District Judge. (8:10-cv-00417-AW)

Submitted: October 7, 2010

Decided: October 21, 2010

Before WILKINSON and DAVIS, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Douglas Roseby, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Douglas M. Roseby seeks to appeal the district court's order dismissing his 42 U.S.C. § 1983 (2006) complaint and has moved to place his appeal in abeyance. The order he seeks to challenge was entered by the district court on March 9, 2010. Roseby filed his notice of appeal, which was dated June 28, 2010, on July 2, 2010. Even giving Roseby the benefit of Houston v. Lack, 487 U.S. 266, 276 (1988), his notice of appeal was untimely filed. See Fed. R. App. P. 4(a)(1)(A). In his notice, however, Roseby indicated that he was unaware of the district court's dismissal order until June 21, 2010. Under Fed. R. App. P. 4(a)(6), the district court may reopen the time to file an appeal if: (1) the moving party did not receive notice of entry of judgment within twenty-one days after entry; (2) a motion to reopen the appeal period is filed within 180 days of entry of judgment or within fourteen days of receiving notice from the district court, whichever is earlier; and (3) no party would be prejudiced. We remand to the district court so it may determine whether Roseby is entitled to have his time to file an appeal reopened under Rule 4(a)(6). The record, as supplemented, will then be returned to this court for further consideration. We also deny as moot Roseby's motion to place his appeal in abeyance.

REMANDED