

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-7551

CHARLES EDWARD THOMAS,

Plaintiff - Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS; JON OZMINT, Former
Prison Director; MEDICAL DIVISION; FINANCIAL RECORDS, In
their individual and official capacities,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Rock Hill. David C. Norton, District Judge.
(0:14-cv-00302-DCN)

Submitted: January 22, 2015

Decided: January 27, 2015

Before SHEDD, KEENAN, and DIAZ, Circuit Judges.

Remanded by unpublished per curiam opinion.

Charles Edward Thomas, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Charles Edward Thomas seeks to appeal the district court's order adopting the magistrate judge's recommendation to dismiss, after a 28 U.S.C. § 1915 (2012) review, his complaint alleging Defendants violated his constitutional, federal and state law rights. 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 entered its judgment dismissing Thomas's action on May 28, 2014. However, Thomas did not file what was construed as a notice of appeal until October 19, 2014,* in which he inquires about the status of his objections to the magistrate judge's report and recommendation. Because Thomas suggests that he did not receive the district court's order adopting the magistrate judge's recommendation, and since his

* For purposes of this appeal, we assume that the date appearing on Thomas's filing is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266 (1988).

inquiry into the status of his objections to that recommendation was made within 180 days of the entry of the district court's entry adopting the recommendation, we construe Thomas's October 19, 2014 filing as a motion to reopen the time to appeal under Rule 4(a)(6). See United States v. Feuwer, 236 F.3d 725, 729 n.7 (D.C. Cir. 2001). Accordingly, we remand the case to the district court for the court to determine whether Thomas can satisfy the requirements of Rule 4(a)(6). See Ogden v. San Juan Cnty., 32 F.3d 452, 454 (10th Cir. 1994). The record, as supplemented, will then be returned to this court for further consideration.

REMANDED