

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 20-7565**

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JOHN BACCUS, a/k/a John Baccus Roosevelt,

Plaintiff - Appellant,

v.

THE STATE OF SOUTH CAROLINA CRIMINAL JUSTICE SYSTEM; PRISON  
KEEPER BRIAN P. STIRLING; WARDEN SCOTT LEWIS; C. EARLEY; SUSAN  
DUFFY; J. BENNETT; K. CONRAD; B. JACOBS; TAMARA CONWELL;  
PRESTON JOHNSON,

Defendants - Appellees.

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Appeal from the United States District Court for the District of South Carolina, at Beaufort.  
David C. Norton, District Judge. (9:19-cv-02919-DCN)

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Submitted: December 22, 2020

Decided: December 29, 2020

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Before NIEMEYER, FLOYD, and RICHARDSON, Circuit Judges.

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Remanded by unpublished per curiam opinion.

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John Baccus, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Baccus seeks to appeal the district court's order accepting the magistrate judge's recommendation and dismissing without prejudice his 42 U.S.C. § 1983 complaint.<sup>1</sup> “[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). A party must file a notice of appeal within 30 days after the entry of the judgment or order appealed from, 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). The district court may reopen the time to file an appeal if: (1) the court finds that the movant did not receive proper notice of the entry of the judgment within 21 days after entry; (2) the motion to reopen the appeal period is filed within 180 days after the order is entered or within 14 days after the movant receives proper notice of the entry, whichever is earlier; and (3) the court finds that no party would be prejudiced. Fed. R. App. P. 4(a)(6); *see* Fed. R. Civ. P. 77(d).

Because Baccus asserts, and the record suggests, that he did not receive timely notice of the entry of the district court's judgment, we construe his notice of appeal as a

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<sup>1</sup> Because the district court dismissed Baccus' complaint for failure to comply with a court order, the court's order is final and appealable. *See Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619, 624 (4th Cir. 2015); *see also Bing v. Brivo Sys., LLC*, 959 F.3d 605 (4th Cir. 2020), *petition for cert. filed*, No. 20-759 (U.S. Dec. 2, 2020).

motion to reopen the appeal period under Rule 4(a)(6).<sup>2</sup> Accordingly, we remand to the district court for the limited purpose of determining whether to reopen the appeal period. The record, as supplemented, then will be returned to this court for further consideration.

*REMANDED*

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<sup>2</sup> Because Baccus filed the notice of appeal more than 30 days after the appeal period expired, the motion cannot be construed as a Rule 4(a)(5) motion for extension of time to file a notice of appeal.