

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-1793

ALICE M. DEANE,

Plaintiff - Appellant,

versus

MARSHALLS, INCORPORATED,

Defendant - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, Senior District Judge. (7:06-cv-00031-jct)

Submitted: October 11, 2006

Decided: October 18, 2006

Before GREGORY, SHEDD, and DUNCAN, Circuit Judges.

Remanded by unpublished per curiam opinion.

Alice M. Deane, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Alice M. Deane seeks to appeal the district court's order denying her leave to proceed in forma pauperis and dismissing her civil action. The district court's final order was entered on the docket on May 25, 2006. Deane's notice of appeal was not received by the district court until July 10, 2006. Although Deane's notice of appeal was filed beyond the thirty-day appeal period set forth in Fed. R. App. P. 4(a)(1), she states in her notice of appeal that she did not receive the court's final order until July 7, 2006. The notice of appeal was filed both within thirty days of the expiration of the appeal period and within seven days of the date Deane asserts she received notice of the district court's entry of a final order. Thus, Deane's statement in her notice of appeal may be properly construed as either a motion for an extension of time in which to note an appeal under Fed. R. App. P. 4(a)(5), or as a motion to reopen the time to note an appeal under Fed. R. App. P. 4(a)(6).

Accordingly, we remand the case to the district court for the limited purpose of determining whether Deane can satisfy the requirements for either an extension of time or a reopening of the appeal period. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED