UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-7220

MARC S. CASON, SR.,

Plaintiff - Appellant,

versus

MARYLAND DIVISION OF PAROLE AND PROBATION,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Catherine C. Blake, District Judge. (1:06-cv-01186-CCB)

Submitted: February 7, 2007 Decided: July 19, 2007

Before TRAXLER, GREGORY, and SHEDD, Circuit Judges.

Remanded by unpublished per curiam opinion.

Marc S. Cason, Sr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marc S. Cason, Sr., seeks to appeal the district court's order dismissing his 42 U.S.C. § 1983 (2000) complaint as barred by the statute of limitations. We remand to the district court for the reasons below.

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). A district court may extend the time to appeal upon motion filed within thirty days after expiration of the prescribed time, and a showing of excusable neglect or good cause. Fed. R. App. P. 4(a)(5). This appeal period is "mandatory and jurisdictional." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on its docket on May 17, 2006. Cason filed his notice of appeal on July 11, 2006, which was after the thirty-day appeal period expired but within the thirty-day excusable neglect period.[*] Cason moved for an extension of time to file the appeal, and the district court ordered Cason to file a supplement to his notice of appeal to show good cause for

[*]July 11, 2006, is the date the document construed as Cason's notice of appeal was filed by the district court. We cannot determine when Cason submitted it to prison officials for mailing because it was not dated and the envelope in which it was sent has not been included as part of the district court's record.

the untimely filing. Cason timely responded but the district court has not ruled on the motion for extension.

Because the notice of appeal was filed within the excusable neglect period and because the district court has not ruled on the motion for an extension, we remand the case to the district court for the limited purpose of permitting the court to determine whether Cason has shown excusable neglect or good case warranting an extension of the thirty-day appeal period. The record, as supplemented, will then be returned to this court for further consideration. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

REMANDED