

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6115

PAUL GRAHAM,

Plaintiff - Appellant,

versus

STATE OF MARYLAND DEPARTMENT OF CORRECTIONS,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Catherine C. Blake, District Judge. (1:06-cv-01998-CCB)

Submitted: June 22, 2007

Decided: July 13, 2007

Before NIEMEYER, KING, and DUNCAN, Circuit Judges.

Remanded by unpublished per curiam opinion.

Paul Graham, Appellant Pro Se. Karl Aram Pothier, Assistant Attorney General, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Paul Graham seeks to appeal the district court's order dismissing his 42 U.S.C. § 1983 (2000) suit. The district court's judgment was entered on November 30, 2006. Graham filed his notice of appeal, which was dated January 6, 2007, on January 22. In his notice of appeal, Graham stated that he did not know whether his case had been dismissed. Even giving Graham the benefit of Houston v. Lack, 487 U.S. 266, 276 (1988), his notice was untimely filed. See Fed. R. App. P. 4(a)(1)(A).

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) the motion is filed within 180 days of entry of judgment or within seven days of receiving notice from the court, whichever is earlier, and (3) no party would be prejudiced. We remand to the district court to determine whether Graham is entitled to the benefit of Rule 4(a)(6) to reopen the time to file an appeal. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED