

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7689

PHILLIP MARK SHAFER,

Plaintiff - Appellant,

v.

CHRISTINE ELLIS, Individually & Officially, DANA MAYLON,
Ethics Commissioner,

Defendants - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Greenbelt. Peter J. Messittee, Senior District
Judge. (8:08-cv-00482-PJM)

Submitted: May 28, 2009

Decided: June 3, 2009

Before WILKINSON, KING, and GREGORY, Circuit Judges.

Remanded by unpublished per curiam opinion.

Phillip Mark Shafer, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Phillip Mark Shafer seeks to appeal the district court's order dismissing without prejudice his complaint in which he asserted that the transcripts of his state trial were altered. The notice of appeal was received in the district court after expiration of the appeal period, but Shafer asserts that it was filed within the appeal period. Because Shafer is incarcerated, the notice is considered filed as of the date it was 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). The record does not reveal when Shafer gave the notice of appeal to prison officials for mailing. Accordingly, we remand the case for the limited purpose of allowing the district court to obtain this information from the parties and to determine whether the filing was timely under Fed. R. App. P. 4(c)(1) and Houston v. Lack. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED