

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6063

CLAYTON WILLIAMS,

Plaintiff - Appellant,

v.

STEVEN RYAN, Physical Therapist; DWAIN M. BREWER, Officer,
CO II; RODERICK R. SOWER, CCE Warden,

Defendants - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. J. Frederick Motz, District Judge.
(1:07-cv-03461-JFM)

Submitted: May 15, 2009

Decided: June 3, 2009

Before WILKINSON, TRAXLER, and AGEE, Circuit Judges.

Remanded by unpublished per curiam opinion.

Clayton Williams, Appellant Pro Se. Rex Schultz Gordon, OFFICE
OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Clayton Williams seeks to appeal the district court's order granting Defendants' motion for summary judgment and dismissing his 42 U.S.C.A. § 1983 (West 2007) civil rights action. Williams' notice of appeal was received in the district court shortly after the expiration of the thirty-day appeal period. Fed. R. App. P. 4(a)(1)(A). Because Williams is incarcerated and proceeding pro se, the notice is considered filed as of the date it was properly delivered to prison officials for mailing to the district court. Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266 (1988). The date on which Williams properly delivered his notice of appeal to prison officials for mailing to the district court is not fairly ascertainable from the current record.

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. 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