

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-6106**

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STACY W. HOWARD,

Plaintiff - Appellant,

v.

DIRECTOR JON E. OZMINT, of S.C. Department of Corrections also known as John E. Ozmint; WARDEN WILLIE EAGLETON; AARON JOYNER, Major; CAPTAIN KENNETH GREEN; S. SKIPPER, IGC of the Evans Correctional Institution; T. WOOLBRIGHT; S. MOSES; C. FOX; T. SIMMONS; MICHAEL J. STOBBE, Inmate Records; JIMMY EDGE, officer; DAVID BRAYBOY, officer,

Defendants - Appellees.

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Appeal from the United States District Court for the District of South Carolina, at Greenville. G. Ross Anderson, Jr., Senior District Judge. (6:08-cv-03171-GRA)

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Submitted: August 31, 2010

Decided: October 27, 2010

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Before NIEMEYER, MOTZ, and KING, Circuit Judges.

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Remanded by unpublished per curiam opinion.

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Stacy W. Howard, Appellant Pro Se. Leigh Powers Boan, William Walter Doar, Jr., MCNAIR LAW FIRM, PA, Pawleys Island, South Carolina, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Stacy W. Howard seeks to appeal the district court's order granting summary judgment to Defendants. The notice of appeal was received in the district court shortly after expiration of the appeal period. Because Howard 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 Howard 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