

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6155

STEVEN E. TARPLEY,

Plaintiff - Appellant,

v.

LIEUTENANT ROBERT FRIEND, Sergeant; OFFICER LINDBURG, are
sued in both their individual and official capacities,

Defendants - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. Benson Everett Legg, District Judge.
(1:08-cv-01240-BEL)

Submitted: July 27, 2010

Decided: August 5, 2010

Before TRAXLER, Chief Judge, and WILKINSON and KEENAN, Circuit
Judges.

Remanded by unpublished per curiam opinion.

Steven E. Tarpley, Appellant Pro Se. Glenn William Bell, OFFICE
OF THE ATTORNEY GENERAL OF MARYLAND, Baltimore, Maryland, for
Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Steven E. Tarpley seeks to appeal the district court's orders denying relief on his 42 U.S.C. § 1983 (2006) complaint and subsequent Fed. R. Civ. P. 59(e) motion to alter or amend the judgment. The notice of appeal was received in the district court shortly after expiration of the appeal period. Because Tarpley 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 Tarpley 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