

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-6604**

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JOHN E. HARGROVE,

Plaintiff - Appellant,

v.

JACOB FULLER; NURSE ERIN; NURSE JESSICA; DR. JOE; KING, C/O;  
DR. EDWARDS; DR. JAMES; MILLER, C/O,

Defendants - Appellees,

and

PRIME CARE MEDICAL INCORPORATED; EASTERN REGIONAL JAIL;  
CHAD; RUDLOFF,

Defendants.

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Appeal from the United States District Court for the Northern  
District of West Virginia, at Clarksburg. Irene M. Keeley,  
District Judge. (1:08-cv-00132-IMK-JSK)

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Submitted: March 19, 2012

Decided: April 3, 2012

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Before MOTZ, SHEDD, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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John E. Hargrove, Appellant Pro Se. John Dorsey Hoffman,  
FLAHERTY, SENSABAUGH & BONASSO, PLLC, Charleston, West Virginia;  
Philip Cameron Petty, ROSE PADDEN & PETTY, LC, Fairmont, West  
Virginia; Chad Marlo Cardinal, Charleston, West Virginia;

Frederick W. Goundry, III, VARNER & GOUNDRY, Frederick,  
Maryland, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John E. Hargrove seeks to appeal the district court's order adopting the magistrate judge's report and recommendation and dismissing without prejudice his 42 U.S.C. § 1983 (2006) complaint. Following two limited remands to the district court to address the timeliness of Hargrove's notice of appeal, we dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 214 (2007).

The district court's amended judgment was entered on the docket on February 10, 2010. The notice of appeal was filed, at the earliest, on April 12, 2010.\* Because Hargrove failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the

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\* For the purpose of this appeal, we assume that the date appearing on the envelope in which Hargrove mailed the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266, 276 (1988).

appeal. 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.

DISMISSED