

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-8005

MICHAEL J. KANODE, SR.,

Plaintiff - Appellant,

v.

DEREK C. SWOPE, Judge; SCOTT ASH, Assistant Prosecuting Attorney; MIKE L. GILLS, Detective; MERCER COUNTY SHERIFF'S DEPARTMENT; MICHAEL P. COOKE; MCGINNIS E. HATFIELD, JR.; ANTHONY BISAHA, Family Court Judge; SHERRY KANODE; WEST VIRGINIA DEPARTMENT OF HEALTH AND HUMAN RESOURCES, and Child Protection Services; STATE OF WEST VIRGINIA; SOUTHERN HIGHLANDS COMMUNITY HEALTH CENTER, INC.; SERGEANT MALISSA CLEMONS; KRISTA ELLISON; SERGEANT JOSE CENTENO; DEPUTY J. D. ELLISON; TIMOTHY BOGGESS, 120 Scott Street, Suite 200 Princeton, WV 24740 Prosecutor; DEBORAH GARTON, 120 Scott Street, Suite 200 Princeton, WV 24740; NISSA KAHLE, Mercer County Prosecutor's Office 120 Scott Street Princeton, WV 24740; DANNY RAY WILLS, Mercer County Sheriff's Dept. 1501 W. Main Street Princeton, WV 24740 Former Sheriff; TONIA HODGES, Mercer County Department of Health and Human Resources 200 Davis Street Princeton, WV 24740; MARSHA EDWARDS, Mercer County Department of Health and Human Resources 200 Davis Street Princeton, WV 24740; ROBB MOTT, 200 12th Street Princeton, WV 24740 Commissioner of Southern Highlands Mental Health Community Center,

Defendants - Appellees.

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. David A. Faber, Senior District Judge. (1:09-cv-01530; 1:10-cv-00407; 1:12-cv-06068; 1:12-cv-00157; 1:11-cv-00994)

Submitted: January 17, 2013

Decided: January 23, 2013

Before GREGORY, SHEDD, KEENAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Michael J. Kanode, Sr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael J. Kanode, Sr., seeks to appeal the district court's order adopting the magistrate judge's recommendation and dismissing Kanode's 42 U.S.C. § 1983 (2006) complaints and related petition for writ of mandamus. 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 order was entered on the docket on September 28, 2012. The notice of appeal was filed on November 9, 2012.* Because Kanode failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented

*For the purpose of this appeal, we assume that the date appearing on 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 (1988).

in the materials before this court and argument would not aid the decisional process.

DISMISSED