

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 16-1133**

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DAVID MICHAEL MONTGOMERY,

Plaintiff - Appellant,

v.

CONMED, INC.,

Defendant - Appellee,

and

JASON BINGHAM, Cpl.; JOHN CARHART, Sgt.; SENIOR TROOPER CLAYCOMB; FRANK FORNOSS, Str.; STRED WINKLER, Senior Trooper; SGT. GALLIGAN; SCOTT PEDERSON; K. R. JENKINS, Officer; JAMIE GROVER, Officer; CHRIS TAYLOR, Tfc.; EDWARD EICHER, Sgt.; TPR BISHOP; THE CARROLL COUNTY JAIL; MR. HARDINGER, Warden; ANNE ARUNDEL COUNTY POLICE; STATE POLICE WESTMINSTER,

Defendants.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. Ellen L. Hollander, District Judge. (1:13-cv-00930-ELH)

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Submitted: April 19, 2016

Decided: April 22, 2016

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Before AGEE, DIAZ, and THACKER, Circuit Judges.

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Remanded by unpublished per curiam opinion.

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David Michael Montgomery, Appellant Pro Se. Thomas Althaus, Megan Green Anderson, Eric Matthew Rigatuso, ECCLESTON & WOLF, PC, Hanover, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Michael Montgomery seeks to appeal the district court's order denying relief on his 42 U.S.C. § 1983 (2012) complaint. The notice of appeal was received in the district court shortly after expiration of the appeal period. Because Montgomery 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 Montgomery 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