

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6890

DANIEL THOMAS LANAHAN,

Plaintiff - Appellant,

v.

WARDEN, Clifton T. Perkins Hospital Center; MRS. BRACY,
Howard County Court,

Defendants - Appellees.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. J. Frederick Motz, Senior District
Judge. (1:16-cv-00824-JFM)

Submitted: August 25, 2016

Decided: August 30, 2016

Before NIEMEYER, DIAZ, and FLOYD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Daniel Thomas Lanahan, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel Thomas Lanahan seeks to appeal the district court's order dismissing his 28 U.S.C. § 2241 (2012) petitions¹ without prejudice for lack of exhaustion.² We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded 30 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 May 6, 2016. The notice of appeal was filed on June 30, 2016.³

¹ The district court construed Lanahan's civil complaint and two petitions as seeking relief under 28 U.S.C. § 2241.

² Generally, dismissals without prejudice are not appealable. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). However, because the defect identified in Lanahan's case – failure to exhaust his state remedies – must be cured by something more than an amendment to his petitions, we conclude that the district court's order is appealable. Id.

³ For the purpose of this appeal, we rely on the postmark date appearing on the envelope containing the undated notice of appeal in light of Lanahan's confinement in a Maryland institution responsible for evaluating the competency of (Continued)

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

DISMISSED

defendants to stand trial. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266, 276 (1988); Jones v. Blanas, 393 F.3d 918, 926-27 (9th Cir. 2004) (explaining that the mailbox rule embodied in Rule 4(c) “applies broadly to any inmate confined in an institution” and that there are “no express limitation[s] of the rule’s application to prisoners, or to penal institutions” (internal quotation marks omitted)).