

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-1732

MR. LESTER D. FLETCHER,

Plaintiff - Appellant,

v.

ASHTON BALDWIN CARTER; DEPARTMENT OF DEFENSE; DEFENSE
COMMISSARY AGENCY DeCA,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Paula Xinis, District Judge. (8:15-cv-03897-PX)

Submitted: October 24, 2017

Decided: November 2, 2017

Before NIEMEYER, SHEDD, and THACKER, Circuit Judges.

Remanded by unpublished per curiam opinion.

Lester D. Fletcher, Appellant Pro Se. Jane Elizabeth Anderson, OFFICE OF THE
UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lester D. Fletcher appeals the district court's order dismissing as untimely his complaint filed pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C.A. §§ 2000e to 2000e-17 (West 2012 & Supp. 2017); the Rehabilitation Act of 1973, as amended, 29 U.S.C.A. §§ 701 to 796l (West 2008 & Supp. 2017); the Americans with Disabilities Act, 42 U.S.C. §§ 12101 to 12213 (2012); and the Age Discrimination in Employment Act, 29 U.S.C.A. §§ 621 to 634 (West 2012 & Supp. 2017). Seven days after the district court issued its memorandum opinion dismissing the complaint, Fletcher filed a "response," arguing that he was entitled to equitable tolling. The district court returned the pleading without consideration, explaining that the case was now closed. "[I]f a post-judgment motion is filed within ten days of the entry of judgment and calls into question the correctness of that judgment it should be treated as a motion under Rule 59(e), however it may be formally styled." *MLC Auto., LLC v. Town of So. Pines*, 532 F.3d 269, 277 (4th Cir. 2008). Thus, Fletcher's postjudgment motion is properly construed as a timely-filed Fed. R. Civ. P. 59(e) motion.

Accordingly, we order a limited remand directing the district court to promptly docket Fletcher's response as a Rule 59(e) motion and to consider the motion on its merits. If either party is dissatisfied after the district court disposes of the Rule 59(e) motion and timely files a notice of appeal or amends its current notice, Fed. R. App. P. 4(a)(4)(B)(ii), any appeal from the district court's final order will be consolidated with this appeal. Regardless of the outcome of the Rule 59(e) motion, the record, as supplemented, will be returned to this court for further consideration.

In ordering this limited remand, we express no opinion as to the merits of the motion. 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.

REMANDED