

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6024

JONAH JERVAIS SOVEREIGN, a/k/a Jarvis L. Canslor,

Plaintiff - Appellant,

v.

LESLIE FLEMING; J.J. SHORT; R. SAYLOR; J.B. CRABTREE; C/O A.
CRAFT,

Defendants - Appellees.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. Jackson L. Kiser, Senior
District Judge. (7:15-cv-00568-JLK-RSB)

Submitted: February 16, 2017 Decided: February 22, 2017

Before GREGORY, Chief Judge, DUNCAN, Circuit Judge, and
HAMILTON, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Jonah Jervais Sovereign, Appellant Pro Se. Margaret Hoehl
O'Shea, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond,
Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jonah Jervais Sovereign seeks to appeal the district court's order dismissing his civil rights complaint. 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). However, if a party moves for an extension of time to appeal within 30 days after expiration of the original appeal period and demonstrates excusable neglect or good cause, a district court may extend the time to file a notice of appeal. Fed. R. App. P. 4(a)(5)(A); Washington v. Bumgarner, 882 F.2d 899, 900-01 (4th Cir. 1989).

The district court's order was entered on the docket on September 2, 2016. The notice of appeal was filed on October 16, 2016, after the expiration of the 30-day appeal period but within the 30-day excusable neglect period.* Because Sovereign's notice of appeal offered some excuse for his untimeliness, we construe it as a request for an extension of time accompanying his notice of appeal. Accordingly, we remand the case for the limited purpose of allowing the district court to determine

* 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).

whether the time for filing a notice of appeal should be extended under Fed. R. App. P. 4(a)(5)(A). The record, as supplemented, will then be returned to this court for further consideration.

REMANDED