

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-7607

JOHN ALEXANDER WAGNER,

Plaintiff - Appellant,

v.

BRIAN G. IAMES; DEAN W. ROUNDS, SR.; CODY W. GILPIN; WARREN G. MALLOW; FRANK B. BISHOP, JR.; CHRISTOPHER ANDERSON; NICHOLAS J. SOLTAS; COREY A. DOLLEY; EARL RITCHIE; BRANDON SELF,

Defendants - Appellees,

and

BRADLEY A. WILT; NP JANETTE CLARK,

Defendants.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
Ellen L. Hollander, District Judge. (1:16-cv-00098-ELH)

Submitted: March 29, 2018

Decided: April 6, 2018

Before TRAXLER, KING, and KEENAN, Circuit Judges.

Remanded by unpublished per curiam opinion.

John Alexander Wagner, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Alexander Wagner, a Maryland inmate, seeks to appeal the portion of the district court's February 28, 2017, order granting summary judgment to one of the Defendants named in his 42 U.S.C. § 1983 (2012) complaint. After the parties agreed to settle the remaining claims, the court dismissed the action on June 29, 2017. Wagner submitted a notice of appeal dated June 29 but received by the district court after the expiration of the 30-day appeal period. Fed. R. App. P. 4(a)(1)(A). Included with his notice of appeal was a letter to the district court clerk, dated December 4, 2017, in which Wagner asserted that he had received no response to a previously filed notice of appeal.

Because Wagner is incarcerated, his notice of appeal is deemed filed on 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). “[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). Here, the record does not conclusively establish when Wagner submitted his notice of appeal to prison officials. Accordingly, we remand the case for the limited purpose of allowing the district court to make this finding and to determine whether Wagner timely filed his notice of appeal. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED