

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-1367

BENJAMIN HENRY WATERS, III,

Plaintiff - Appellant,

v.

CITY OF BALTIMORE; STATE ATTORNEY OFFICER; BALTIMORE CITY
DEPARTMENT OF CORRECTIONS; BALTIMORE CITY POLICE
DEPARTMENT,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
George L. Russell, III, District Judge. (1:17-cv-01113-GLR)

Submitted: August 27, 2018

Decided: August 30, 2018

Before WILKINSON, KING, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Benjamin Henry Waters, III, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Benjamin Henry Waters, III, seeks to appeal the district court's order dismissing his 42 U.S.C. § 1983 (2012) complaint without prejudice for failure to comply with the court's prior order instructing him to amend his complaint. We dismiss the appeal for lack of jurisdiction because the district court's dismissal of Waters' complaint was not an appealable final order and because the notice of appeal was not timely filed.

First, an order dismissing a complaint without prejudice does not constitute an "appealable final order under [28 U.S.C.] § 1291 if the plaintiff could save his action by merely amending his complaint." *Goode v. Cent. Va. Legal Aid Soc'y*, 807 F.3d 619, 623 (4th Cir. 2015). Here, the district court made clear that Waters could proceed with his case if he supplemented his allegations, which Waters has not done. This Court therefore lacks jurisdiction over Waters' present appeal.

Additionally, parties are accorded thirty 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). Timely filing a notice of appeal in a civil case is also a jurisdictional requirement. *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

The district court's order was entered on the docket on August 1, 2017. The notice of appeal was filed on March 13, 2018. Because Waters failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny leave to proceed in forma pauperis and 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