

UNPUBLISHED

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

No. 20-7248

MARCO OWENS,

Plaintiff - Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS; WARDEN
WASHINGTON; HEAD QUARTERS CLASSIFICATION; OFFICER COKLY;
DIRECTOR BRYAN STERLING; MAJOR OCEAN,

Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Aiken.
Bruce H. Hendricks, District Judge. (1:20-cv-00476-BHH)

Submitted: February 18, 2021

Decided: February 22, 2021

Before NIEMEYER, KING, and FLOYD, Circuit Judges.

Remanded by unpublished per curiam opinion.

Marco Owens, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marco Owens seeks to appeal the district court's order accepting the magistrate judge's recommendation and dismissing Owens' 42 U.S.C. § 1983 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), 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). 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 June 19, 2020. Owens filed his notice of appeal after the expiration of the 30-day appeal period but within the 30-day excusable neglect period. Because Owens' notice of appeal contained language requesting further time to file his appeal, we construe it as a request for an extension of time under Fed. R. App. P. 4(a)(5). Accordingly, although we deny Owens' motions to amend the complaint and to assign counsel, we remand this case to the district court for the limited purpose of determining whether Owens' request for extension of time was timely filed and, if so, whether he has demonstrated excusable neglect or good cause warranting an extension of the 30-day appeal period. The record, as supplemented, may then be returned to this court for further consideration.

REMANDED