

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7696

WAYNE RESPER,

Plaintiff - Appellant,

v.

WEXFORD MEDICAL SERVICES; NURSE BRENDA REECE; NURSE BEVERLY MC LAUGHLIN; NURSE CARLA BUCK; ALAN WILT; DIANE HENSEL; BERNICE; RYAN BROWNING; RICHARD GRAHAM, JR., Warden,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Peter J. Messitte, Senior District Judge. (8:17-cv-02014-PJM)

Submitted: May 27, 2021

Decided: July 20, 2021

Before AGEE, THACKER, and RICHARDSON, Circuit Judges.

Remanded by unpublished per curiam opinion.

Wayne Resper, Appellant Pro Se. Douglas Conrad Meister, Gina Marie Smith, MEYERS, RODBELL & ROSENBAUM, PA, Riverdale Park, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Wayne Resper seeks to appeal the district court's order granting summary judgment to Defendants in his 42 U.S.C. § 1983 suit. The order he seeks to challenge was entered by the district court on September 21, 2020. Resper filed his notice of appeal, which was dated October 31, on November 9. Even giving Resper the benefit of *Houston v. Lack*, 487 U.S. 266, 276 (1988), his notice of appeal was untimely filed. *See* Fed. R.App. P. 4(a)(1)(A). In his notice, however, Resper indicated that he was unaware of the district court's order until October 29. Under Fed. R. App. P. 4(a)(6), the district court may reopen the time to file an appeal if: (1) the moving party did not receive notice of entry of judgment within twenty-one days after entry; (2) a motion to reopen the appeal period is filed within 180 days of entry of judgment or within fourteen days of receiving notice from the district court, whichever is earlier; and (3) no party would be prejudiced. We remand to the district court so it may determine whether Resper is entitled to have his time to file an appeal reopened under Rule 4(a)(6). The record, as supplemented, will then be returned to this court for further consideration.

REMANDED