

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-6598

PRIEST MOMOLU V.S. SIRLEAF, JR.,

Plaintiff - Appellant,

v.

HAROLD W. CLARKE; A. DAVIDE ROBINSON; MARK E. PEARSON; MARK
E. ENGELKE; CHAPLAIN HOLLENBAUGH; CYNTHIA PUTNEY; LOUISE G.
GOODE,

Defendants – Appellees,

and

D. Y. KINSLEY,

Defendant.

Appeal from the United States District Court for the Eastern District of Virginia, at
Richmond. M. Hannah Lauck, District Judge. (3:18-cv-00311-MHL-EWH)

Submitted: November 4, 2022

Decided: February 17, 2023

Before GREGORY, Chief Judge, and NIEMEYER and RUSHING, Circuit Judges.

Remanded by unpublished per curiam opinion.

Priest Momolu V.S. Sirleaf, Jr., Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Priest Momolu V.S. Sirleaf, Jr., seeks to appeal the district court's order denying relief in his 42 U.S.C. § 1983 action. The order was entered on March 9, 2021, and Sirleaf had 30 days to file his notice of appeal. *See* Fed. R. App. P. 4(a)(1)(A). The district court received Sirleaf's notice of appeal after the expiration of the appeal period. Because Sirleaf was incarcerated at the time of the appeal, the notice was considered filed as of the date it was delivered to prison officials for mailing to the court. *See* Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988). Sirleaf stated he delivered his notice of appeal to prison officials for mailing on April 14, 2021, which would make the notice untimely. However, Sirleaf also stated he did not receive the court's order until April 13, 2021.

Accordingly, we remand this case for the limited purpose of allowing the district court to determine whether Sirleaf's notice of appeal should be construed as a motion for an extension or reopening of the time to appeal under Fed. R. App. P. 4(a)(5), (6), and if so, whether such an extension should be granted. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED