

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-1106

MELANIE MATHEWSON, Administrator for the Estate of Justin Smith,

Plaintiff - Appellant,

v.

GOVERNOR ROY ASBERRY COOPER, III, in his individual capacity; REGINA FEREBEE, in her individual capacity; ERIC A. HOOKS, in his individual capacity; KENNETH LASSITER, in his individual capacity; GARY JUNKER, in his individual capacity; FRANK L. PERRY, in his individual capacity; ROBERT KALDAHL, in his individual capacity; FELIX TAYLOR, in his individual capacity; COLBERT RESPASS, in his individual capacity; MIKEL E. BRADY, II, in his individual capacity; WISEZAH D. BUCKMAN, in his individual capacity; JONATHAN M. MONK, in his individual capacity; SETH J. FRAZIER, in his individual capacity; ANNIE HARVEY, in her individual capacity; JOSEPH HARRELL, in his individual capacity; MARQUIS BETZ, in his individual capacity; KAREN BROWN, in her individual capacity; ROBERT LEON, in his individual capacity; JEFFREY BAKER, in his individual capacity; LORIS SUTTON, in her individual capacity; VIVIAN JOHNSON, in her individual capacity; THOMAS ASHLEY, in his individual capacity; STEVEN GARDNER, in his individual capacity; CARLTON RICHARDSON, in his individual capacity; LEON WILLIAMS, in his individual capacity; STEPHANIE FREEMAN, in her individual capacity; KAREN STEINOUR, in her individual capacity; JOE PRATER, in his individual capacity; TIM MOOSE, in his individual capacity; BILL STOVAL, in his individual capacity; JERRY CARROLL, in his individual capacity,

Defendants - Appellees.

No. 23-1109

ERIC DARDEN, Administrator for the Estate of Veronica Darden,

Plaintiff - Appellant,

v.

GOVERNOR ROY ASBERRY COOPER, III, in his individual capacity; REGINA FEREBEE, in her individual capacity; ERIC A. HOOKS, in his individual capacity; KENNETH LASSITER, in his individual capacity; GARY JUNKER, in his individual capacity; FRANK L. PERRY, in his individual capacity; ROBERT KALDAHL, in his individual capacity; FELIX TAYLOR, in his individual capacity; COLBERT RESPASS, in his individual capacity; MIKEL E. BRADY, II, in his individual capacity; WISEZAH D. BUCKMAN, in his individual capacity; JONATHAN M. MONK, in his individual capacity; SETH J. FRAZIER, in his individual capacity; ANNIE HARVEY, in her individual capacity; JOSEPH HARRELL, in his individual capacity; MARQUIS BETZ, in his individual capacity; KAREN BROWN, in her individual capacity; ROBERT LEON, in his individual capacity; JEFFREY BAKER, in his individual capacity; LORIS SUTTON, in her individual capacity; VIVIAN JOHNSON, in her individual capacity; THOMAS ASHLEY, in his individual capacity; STEVEN GARDNER, in his individual capacity; CARLTON RICHARDSON, in his individual capacity; LEON WILLIAMS, in his individual capacity; STEPHANIE FREEMAN, in her individual capacity; KAREN STEINOUR, in her individual capacity; JOE PRATER, in his individual capacity; TIM MOOSE, in his individual capacity; BILL STOVAL, in his individual capacity; JERRY CARROLL, in his individual capacity,

Defendants - Appellees.

No. 23-1113

CURTIS R. CASPER; DANIELLE H. CASPER; D.R.C. I; D.R.C. II,

Plaintiffs - Appellants,

v.

GOVERNOR ROY ASBERRY COOPER, III, in his individual capacity; REGINA FEREBEE, in her individual capacity; ERIC A. HOOKS, in his individual capacity; KENNETH LASSITER, in his individual capacity; GARY JUNKER, in his

individual capacity; FRANK L. PERRY, in his individual capacity; ROBERT KALDAHL, in his individual capacity; FELIX TAYLOR, in his individual capacity; COLBERT RESPASS, in his individual capacity; MIKEL E. BRADY, II, in his individual capacity; WISEZAH D. BUCKMAN, in his individual capacity; JONATHAN M. MONK, in his individual capacity; SETH J. FRAZIER, in his individual capacity; ANNIE HARVEY, in her individual capacity; JOSEPH HARRELL, in his individual capacity; MARQUIS BETZ, in his individual capacity; KAREN BROWN, in her individual capacity; ROBERT LEON, in his individual capacity; JEFFREY BAKER, in his individual capacity; LORIS SUTTON, in her individual capacity; VIVIAN JOHNSON, in her individual capacity; THOMAS ASHLEY, in his individual capacity; STEVEN GARDNER, in his individual capacity; CARLTON RICHARDSON, in his individual capacity; LEON WILLIAMS, in his individual capacity; STEPHANIE FREEMAN, in her individual capacity; KAREN STEINOUR, in her individual capacity; JOE PRATER, in his individual capacity; TIM MOOSE, in his individual capacity; BILL STOVAL, in his individual capacity; JERRY CARROLL, in his individual capacity,

Defendants - Appellees.

No. 23-1116

ROSA SHANNON; TAMMY SHANNON; ARNETTA SHEARD,

Plaintiffs - Appellants,

v.

GOVERNOR ROY ASBERRY COOPER, III, in his individual capacity; REGINA FEREBEE, of Corrections Enterprise; ERIC A. HOOKS, in his individual capacity; KENNETH LASSITER, in his individual capacity; GARY JUNKER, in his individual capacity; FRANK L. PERRY, in his individual capacity; ROBERT KALDAHL, of Corrections Enterprise; FELIX TAYLOR, in his individual capacity; COLBERT RESPASS, in his individual capacity; MIKEL E. BRADY, II, of Corrections Enterprise; WISEZAH D. BUCKMAN, of Corrections Enterprise; JONATHAN M. MONK, of Corrections Enterprise; SETH J. FRAZIER, of Corrections Enterprise; ANNIE HARVEY, in her individual capacity; JOSEPH HARRELL, in his individual capacity; MARQUIS BETZ, in his individual capacity; KAREN BROWN, of Corrections Enterprise; ROBERT LEON, of Corrections Enterprise; JEFFREY BAKER, in his individual capacity; LORIS

SUTTON, in her individual capacity; VIVIAN JOHNSON, in her individual capacity; THOMAS ASHLEY, in his individual capacity; STEVEN GARDNER, in his individual capacity; CARLTON RICHARDSON, of Corrections Enterprise; LEON WILLIAMS, in his individual capacity; STEPHANIE FREEMAN, in her individual capacity; KAREN STEINOUR, in her individual capacity; JOE PRATER, in his individual capacity; TIM MOOSE, in his individual capacity; BILL STOVAL, in his individual capacity; JERRY CARROLL, in his individual capacity,

Defendants - Appellees.

No. 23-1117

GEORGE W. MIDGETT; SUSIE E. MIDGETT,

Plaintiffs - Appellants,

v.

GOVERNOR ROY ASBERRY COOPER, III, in his individual capacity; REGINA FEREBEE, of Corrections Enterprise; ERIC A. HOOKS, in his individual capacity; KENNETH LASSITER, in his individual capacity; GARY JUNKER, in his individual capacity; FRANK L. PERRY, in his individual capacity; ROBERT KALDAHL, of Corrections Enterprise; FELIX TAYLOR, in his individual capacity; COLBERT RESPASS, in his individual capacity; MIKEL E. BRADY, II, of Corrections Enterprise; WISEZAH D. BUCKMAN, of Corrections Enterprise; JONATHAN M. MONK, of Corrections Enterprise; SETH J. FRAZIER, of Corrections Enterprise; ANNIE HARVEY, in her individual capacity; JOSEPH HARRELL, in his individual capacity; MARQUIS BETZ, in his individual capacity; KAREN BROWN, of Corrections Enterprise; ROBERT LEON, of Corrections Enterprise; JEFFREY BAKER, in his individual capacity; LORIS SUTTON, in her individual capacity; VIVIAN JOHNSON, in her individual capacity; THOMAS ASHLEY, in his individual capacity; STEVEN GARDNER, in his individual capacity; CARLTON RICHARDSON, of Corrections Enterprise; LEON WILLIAMS, in his individual capacity; STEPHANIE FREEMAN, in her individual capacity; KAREN STEINOUR, in her individual capacity; JOE PRATER, in his individual capacity; TIM MOOSE, in his individual capacity; BILL STOVAL, in his individual capacity; JERRY CARROLL, in his individual capacity,

Defendants - Appellees.

Appeals from the United States District Court for the Middle District of North Carolina, at Greensboro. Thomas D. Schroeder, District Judge. (1:20-cv-00944-TDS-LPA; 1:20-cv-00947-TDS-LPA; 1:20-cv-00942-TDS-LPA; 1:20-cv-00953-TDS-LPA; 1:20-cv-00941-TDS-LPA)

Submitted: September 11, 2023

Decided: October 24, 2023

Before GREGORY and RUSHING, Circuit Judges, and MOTZ, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Latrisha Chantel Cherry-Lassiter, CCL LAW OFFICE, Elizabeth City, North Carolina; Morris Fonville McAdoo, MCADOO LORICK, PLLC, Charlotte, North Carolina, for Appellants. Tamika Lynn Henderson, Assistant Attorney General, Stephanie A. Brennan, NORTH CAROLINA DEPARTMENT OF JUSTICE, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In these consolidated appeals, Melanie Mathewson, Administrator of the Estate of Justin Smith, Eric Darden, Administrator of the Estate of Veronica Darden, Curtis R. Casper, Danielle H. Casper, D.R.C. I, D.R.C. II, Rosa Shannon, Tammy Shannon, Arnetta Sheard, George W. Midgett, and Susie E. Midgett (“Appellants”) seek to appeal the final judgment entered by the district court in their 42 U.S.C. § 1983 actions. The district court denied relief on Appellants’ claims against state and prison officials (“State Appellees”) and several inmates (“Inmate Appellees”) that arose from an unsuccessful escape attempt, during which deaths and injuries occurred. State Appellees have filed a consolidated motion to dismiss the appeals as untimely. We grant the motion to dismiss and dismiss the appeals in their entirety for lack of jurisdiction because the notices of appeal were not timely filed.

In civil cases, parties have 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). “[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), when the time period is prescribed by statute, *id.* at 210-13; *see Hamer v. Neighborhood Hous. Servs. of Chi.*, 583 U.S. 17, 19 (2017) (stating that “a provision governing the time to appeal in a civil action qualifies as jurisdictional only if Congress sets the time”).

The district court entered its final judgment on December 21, 2022. Appellants filed the notices of appeal on January 23, 2023, beyond the expiration of the 30-day appeal

period. Appellants contend in their response to State Appellees' motion to dismiss that the time limits in Rule 4(a) are not jurisdictional. However, except when a district court extends the time to note an appeal pursuant to Rule 4(a)(5)(C), the time limits in Rule 4(a) are jurisdictional because they are grounded in 28 U.S.C. § 2107(c), a statute in which Congress established the relevant time limits. *See Bowles*, 551 U.S. at 211-12 (noting “the jurisdictional distinction between court-promulgated rules and limits enacted by Congress”); *Hamer*, 538 U.S. at 19 (holding nonjurisdictional Rule 4(a)(5)(C)'s limit on length of extension of time to file notice of appeal because limit does not appear in § 2701(c)); *Parrish v. United States*, 74 F.4th 160, 162 (4th Cir. 2023) (explaining that “the times specified by statute for filing appeals in civil actions are jurisdictional”). Because Appellants failed to file timely notices of appeal or to obtain an extension or reopening of the appeal period, we grant the motion to dismiss and dismiss the appeals in their entirety.*

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

* Appellant Midgett filed a motion to extend the appeal period, which the district court denied. Midgett did not appeal that order. No other Appellant filed a motion for an extension of time to appeal.