

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6004

DARREL R. FISHER,

Plaintiff - Appellant,

v.

MAUREEN LYONS REARDON; SARAH RALSTON; JUDGE W. EARL BRITT,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. James C. Dever III, District Judge. (5:21-ct-03186-D)

Submitted: August 31, 2023

Decided: October 17, 2023

Before RUSHING and BENJAMIN, Circuit Judges, and FLOYD, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Darrel R. Fisher, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darrel R. Fisher seeks to appeal the district court's order directing the clerk not to accept further filings other than a notice of appeal in Fisher's previously dismissed civil action. The district court received the notice of appeal after the expiration of the appeal period. Because Fisher is institutionalized, the notice of appeal is considered filed as of the date it was properly delivered to officials at the institution for mailing to the court. Fed. R. App. P. 4(c)(1); *Houston v. Lack*, 487 U.S. 266, 276 (1988). The record does not conclusively establish when Fisher deposited the notice of appeal in the institution's internal mail system. Accordingly, we remand this case for the limited purpose of allowing the district court to make this finding and to determine whether Fisher timely noted an appeal under Rule 4(c)(1) and *Houston v. Lack*. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED