IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

F I L E D

August 3, 2009

No. 08-31120
Summary Calendar

Charles R. Fulbruge III
Clerk

ALLARICK CLAY

Plaintiff-Appellant

v.

TIM WILKERSON; VIRGIL LUCAS; CORRECTIONS CORPORATION OF AMERICA; K BRADFORD; R FISHER

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:07-CV-730

Before KING, STEWART, and HAYNES, Circuit Judges.

PER CURIAM:[*]

Allarick Clay moves this court for leave to proceed in forma pauperis (IFP) in his appeal from the district court's dismissal of his 42 U.S.C. § 1983 complaint. The complaint, which alleged that corrections officers, prison officials, and the Corrections Corporation of America were liable to Clay because another inmate at the Winn Correctional Center attacked him, was dismissed as frivolous and for failure to state a claim upon which relief may be granted.

---

[*] Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

We must examine the basis of our jurisdiction sua sponte if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A timely notice of appeal is mandatory and jurisdictional in a civil case. *Bowles v. Russell*, 127 S. Ct. 2360, 2363-66 (2007). The notice of appeal in a civil action must be filed within 30 days of entry of the judgment from which the appeal is taken. 28 U.S.C. § 2107(a); FED. R. APP. P. 4(a)(1)(A).

The final judgment dismissing Clay's complaint was entered on April 29, 2008, but Clay's notice of appeal was not filed until November 2008, more than six months after that date. Because Clay did not file a timely notice of appeal, we are without jurisdiction to consider his appeal. *See Bowles*, 127 S. Ct. at 2363-66. Accordingly, we dismiss Clay's appeal for lack of jurisdiction and deny his IFP motion.

APPEAL DISMISSED; MOTION DENIED.