

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

May 11, 2011

No. 10-51021
Summary Calendar

Lyle W. Cayce
Clerk

TIMMY EDWARD HATFIELD,

Plaintiff-Appellant

v.

OSCAR MENDOZA, Texas Department of Criminal Justice Director; BARBAIZA TREVINO, Texas Department of Criminal Justice Director; LORI DAVIS, Lynaugh Unit Warden; BRAD LIVINGSTON, Safe Prisons Coordinator; MS. BIESE, Safe Prisons Officer; MAJOR PEREZ, Major, Unit Classification Committee; CAPTAIN CHAVEZ, Captain of Security; SERGEANT LOPEZ, Gang Coordinator; MS. MCCOMB, Unit Classification Committee; LIEUTENANT RIVAS, Lieutenant; CAPTAIN PENA, Captain; OFFICER HOLLOND, Officer; A. HERNANDEZ, Officer; LIEUTENANT CATERAS, Lieutenant; F. RODRIGUEZ, Lieutenant; WARDEN E. GUERRERO, Assistant Warden,

Defendants-Appellees

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:09-CV-97

Before DAVIS, SMITH and SOUTHWICK, Circuit Judges.

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 10-51021

Timmy Edward Hatfield, Texas prisoner # 1521700, has filed a motion for leave to proceed in forma pauperis (IFP) on appeal from the district court's dismissal of his civil rights suit without prejudice as moot. This court has a duty to examine the basis of its jurisdiction, sua sponte, if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A timely notice of appeal is a jurisdictional requirement in a civil case. *Bowles v. Russell*, 551 U.S. 205, 213-14 (2007).

Federal Rule of Appellate Procedure 4(a)(1)(A) requires that the notice of appeal in a civil action be filed within 30 days of entry of the judgment or order from which the appeal is taken. Hatfield's notice of appeal was untimely under Rule 4(a)(1)(A) because it was filed at the earliest on September 22, 2010, more than 30 days after the district court's judgment dismissing his suit was entered on May 12, 2010. Additionally, Rule 4(a)(5) and (6) do not assist Hatfield with respect to the untimeliness of his notice of appeal. Given the absence of a timely notice of appeal in this case, this appeal must be dismissed for lack of jurisdiction.

APPEAL DISMISSED; MOTION DENIED.