

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

HELFRIED E. SARTORI,
Plaintiff-Appellant,

v.

DOUGLAS VARGO; DAVID GARRAGHTY;
GEORGE HINKLE; CLAUDE NOIROT;
DANIEL T. MAHON; JAMES KING;
RONALD J. ANGELONE; VERNON
SMITH, Dr.; KAREN WALLACE; STEVE
HARRIS; N. N. WHITE; N. N.
CHATHAM, Dr.; N. N. KAZI; FRED
ROACH,

Defendants-Appellees.

No. 03-6131

Appeal from the United States District Court
for the Eastern District of Virginia, at Alexandria.
Leonie M. Brinkema, District Judge.
(CA-02-990-AM)

Submitted: February 20, 2003

Decided: March 4, 2003

Before LUTTIG, MOTZ, and GREGORY, Circuit Judges.

Dismissed in part and affirmed in part by unpublished per curiam
opinion.

COUNSEL

Helfried E. Sartori, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Helfried Sartori appeals the district court's November 13, 2002 order denying his Fed. R. Civ. P. 59(e) motion to reconsider its October 11, 2002 order denying reconsideration of its dismissal of his complaint under 42 U.S.C. § 1983 (2000) without prejudice. Sartori timely filed one Rule 59(e) motion addressing the district court's September 18, 2002 order dismissing his complaint, which tolled the period for noting an appeal. *See Panhorst v. United States*, 241 F.3d 367, 370 (4th Cir. 2001). Rather than noting an appeal after the district court denied his first Rule 59(e) motion, on October 11, 2002, Sartori filed a second Rule 59(e) motion. Because a second Rule 59(e) motion will not again toll the period for noting an appeal, and Sartori did not note his appeal until December 26, 2002, his appeal from the district court's September 18 dismissal order is untimely. *See Charles v. Daley*, 799 F.2d 343, 347-48 (7th Cir. 1986) (collecting cases). We therefore dismiss the appeal as to the September 18, 2002 order as untimely.

To the extent Sartori's notice of appeal is timely as to the court's denial of his second Rule 59(e) motion on November 13, 2002, we find no error. Accordingly, we affirm the denial of Sartori's second Rule 59(e) motion for the reasons stated by the district court. *Sartori v. Vargo*, No. CA-02-990-AM (E.D. Va., filed Nov. 12, 2002; entered Nov. 13, 2002). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED IN PART; AFFIRMED IN PART