

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 05-6366

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TOMMY HARRIS,

Plaintiff - Appellant,

versus

PIGGLY WIGGLY, INCORPORATED; CITY OF  
GREENWOOD; LEE COUNTY DEPARTMENT OF  
CORRECTIONS; MENTAL HEALTH,

Defendants - Appellees.

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Appeal from the United States District Court for the District of  
South Carolina, at Columbia. Terry L. Wooten, District Judge.  
(CA-04-23022-TLW)

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Submitted: June 23, 2005

Decided: June 30, 2005

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Before WIDENER, MICHAEL, and TRAXLER, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Tommy Harris, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Tommy Harris seeks to appeal the district court's order dismissing without prejudice his 42 U.S.C. § 1983 (2000) complaint. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty 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). This appeal period is "mandatory and jurisdictional." Browder v. Dir., Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's judgment was entered on the docket on December 20, 2004. The notice of appeal was filed on February, 28, 2005.\* Because Harris failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the

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\*For the purposes of this appeal, we assume the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

materials before the court and argument would not aid the decisional process.

DISMISSED