

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-7736

TERENCE TERELL BRYAN,

Plaintiff - Appellant,

versus

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS,

Defendant - Appellee.

No. 05-7743

TERENCE TERELL BRYAN,

Plaintiff - Appellant,

versus

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS;
LIEUTENANT QUICK; SERGEANT JOHNSON,

Defendants - Appellees.

No. 05-7745

TERENCE TERELL BRYAN,

Plaintiff - Appellant,

versus

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS;
EVANS GRIEVANCE STAFF,

Defendants - Appellees.

Appeals from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, District Judge. (CA-04-2260-4; CA-04-2355-4; CA-04-2361-4)

Submitted: January 19, 2006

Decided: January 26, 2006

Before WILKINSON, TRAXLER, and SHEDD, Circuit Judges.

No. 05-7743, affirmed; Nos. 05-7736 & 05-7745, dismissed by unpublished per curiam opinion.

Terence Terell Bryan, Appellant Pro Se. Edgar Lloyd Willcox, II, WILLCOX, BUYCK & WILLIAMS, P.A., Florence, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

In these consolidated appeals, Terence Terrell Bryan appeals the district court's judgments adopting the magistrate judge's report and recommendation, dismissing his complaints and denying his Fed. R. Civ. P. 59(e) motions. We dismiss the appeals in 05-7736 and 05-7745 for lack of jurisdiction because the notices of appeal were not timely filed. We affirm the judgment and order entered in 05-7743.

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. Director, Dep't of Corr., 434 U.S. 257, 264 (1978). A timely filed Rule 59(e) motion tolls the appeal period until the motion is disposed. The district court's orders denying the Rule 59(e) motions were entered on September 27, 2005. The notices of appeal were filed, at the earliest, on October 28, 2005.* Because Bryan failed to file timely notices of appeal or obtain an extension or reopening of the appeal period, we dismiss the appeals.

*For the purpose of these appeals, we assume the dates appearing on the notices of appeal are the earliest date they 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).

With respect to 05-7743, we have reviewed the record, the district court's order, the magistrate judge's report and recommendation and affirm for the reasons of the district court. See Bryan v. South Carolina Dep't of Corr., No. CA-04-2355-4 (D.S.C. Sept. 16 & Oct. 14, 2005).

Accordingly, we affirm in part and dismiss in part. Bryan has filed a motion for injunctive relief in no. 05-7736. We deny the motion. 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.

No. 05-7743 - AFFIRMED
Nos. 05-7736 & 05-7745 - DISMISSED