UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 98-7227

QUENTIN MCLEAN,

Plaintiff - Appellant,

versus

M. MICHAEL, C/O Augusta Correctional Center;
A. SANTIAGO, C/O Augusta Correctional Center;
D. L. COOK, C/O Augusta Correctional Center,

Defendants - Appellees.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. Samuel G. Wilson, Chief District Judge. (CA-98-119-R)

Submitted: January 31, 2000 Decided: February 8, 2000

Before MICHAEL, TRAXLER, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Quentin McLean, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Appellant Quentin McLean seeks to appeal the district court's order dismissing without prejudice his 42 U.S.C.A. § 1983 (West Supp. 1999) complaint. Initially, we found that McLean's notice of appeal was untimely and was filed outside the excusable neglect period. However, we remanded this case to the district court to consider McLean's motion to reopen the appeal period pursuant to Rule 4(a)(6) of the Federal Rules of Appellate Procedure. The district court denied the motion. We find that the district court did not abuse its discretion in denying McLean's motion to reopen the appeal period. See Ogden v. San Juan County, 32 F.3d 452, 455 (10th Cir. 1994) (standard of review for denial of Rule 4(a)(6) motions). Consequently, we now dismiss the appeal for lack of jurisdiction because McLean's notice of appeal was not timely filed. 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