

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

MELVIN LEROY COX,
Plaintiff-Appellant,

v.

LEXINGTON COUNTY JAIL; PRISON
HEALTH SERVICE, INCORPORATED;
WEST COLUMBIA POLICE DEPARTMENT;
CHARLESTON COUNTY JAIL,
Defendants-Appellees.

No. 01-6887

MELVIN LEROY COX,
Plaintiff-Appellant,

v.

LEXINGTON COUNTY JAIL; PRISON
HEALTH SERVICE, INCORPORATED;
WEST COLUMBIA POLICE DEPARTMENT;
CHARLESTON COUNTY JAIL,
Defendants-Appellees.

No. 01-7908

Appeals from the United States District Court
for the District of South Carolina, at Columbia.
Henry M. Herlong, Jr., District Judge.
(CA-00-1383-3-20-BC)

Submitted: March 8, 2002

Decided: March 26, 2002

Before WIDENER, MICHAEL, and MOTZ, Circuit Judges.

No. 01-6887 dismissed and No. 01-7908 affirmed by unpublished per curiam opinion.

COUNSEL

Melvin Leroy Cox, Appellant Pro Se. Alice Price Adams, DAVIDSON, MORRISON & LINDEMANN, P.A., Columbia, South Carolina; Chace Damon Campbell, LOVE, THORNTON, ARNOLD & THOMASON, P.A., Vincent Clark Price, ROE, CASSIDY, COATES & PRICE, P.A., Greenville, South Carolina; Sandra Jane Senn, Charleston, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Melvin Leroy Cox seeks to appeal the district court's order dismissing his action against prison officials pursuant to 42 U.S.C.A. § 1983 (West Supp. 2001). We remanded No. 01-6887 to the district court for a determination of whether Cox was entitled to have the period to note an appeal reopened under Fed. R. App. P. 4(a)(6) based on his assertion that he did not receive timely notice of the order in question. The district court denied relief under Rule 4(a)(6), and Cox has noted an appeal from that order as well, which is the subject of No. 01-7908. For the following reasons, we grant the Appellees' motion to dismiss Cox's appeal No. 01-6887 from the denial of his § 1983 action and affirm the denial of his Rule 4(a)(6) motion in No. 01-7908.

With respect to the dismissal of Cox's § 1983 action, parties are accorded thirty days after entry of the district court's final judgment or order to note an appeal, *see* Fed. R. App. P. 4(a)(1), unless the dis-

district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Rule 4(a)(6). This appeal period is "mandatory and jurisdictional." *Browder v. Director, Dep't of Corrections*, 434 U.S. 257, 264 (1978) (quoting *United States v. Robinson*, 361 U.S. 220, 229 (1960)). The district court's order was entered on the docket on December 8, 2000, and Cox's notice of appeal was filed on May 24, 2001. As a result, Cox's notice of appeal was untimely.

Although we remanded this appeal to the district court for a determination whether Cox was entitled to a reopening of the appeal period under Rule 4(a)(6), the district court properly denied relief under that provision because Cox failed to apprise the district court of a change of address. *See Benavides v. Bureau of Prisons*, 79 F.3d 1211, 1214 (D.C. Cir. 1996). Accordingly, because Cox's notice of appeal is untimely, and he is ineligible to have the period for noting an appeal reopened, we grant the Appellees' motion to dismiss Cox's appeal in No. 01-6887 for lack of jurisdiction and affirm in No. 01-7908 the district court's order denying relief under Rule 4(a)(6) on remand. Additionally, we grant the motion to dismiss filed in No. 01-7908 by Appellees West Columbia Police Department and Lexington County Jail. Finally, while we grant Cox's motion to amend his request for sanctions, we deny Cox's motions for appointment of counsel and for general relief and for sanctions. 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. 01-6887 - *DISMISSED*

No. 01-7908 - *AFFIRMED*