

June 24, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-60887
Summary Calendar

NAZARETH GATES, Et Al.,

Plaintiffs,

versus

JOHN COLLIER, Et Al.,

Defendants.

PHILLIP MARCUS CARTER,

Plaintiff-Appellant,

versus

ROBERT L. JOHNSON, COMMISSIONER, MISSISSIPPI
DEPARTMENT OF CORRECTIONS, Et Al.,

Defendants,

RAYMOND LANKFORD, Director Chaplaincy Services;
MAUD IRBY, Warden, Area III; R. L. RHODES,
Unit Administrator,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi

USDC No. 01-CV-115-P-A

USDC No. 71-CV-6-JAD

Before DAVIS, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Phillip Marcus Carter, Mississippi prisoner # 04491, filed the instant 42 U.S.C. § 1983 complaint against several employees of the Mississippi Department of Corrections (MDOC) seeking reinstatement of prayer services in his unit. The district court dismissed his complaint with prejudice in a judgment entered on May 20, 2002. Carter did not file his notice of appeal until October 9, 2002. It was therefore untimely, and, as a result, this court lacks jurisdiction over this appeal. FED. R. APP. P. 4(a)(1); Dison v. Whitley, 20 F.3d 185, 186 (5th Cir. 1994).

Carter's postjudgment "motion for record and transcripts" which he purports to have mailed on June 4, 2002, does not qualify as a FED. R. CIV. P. 59(e) or 60(a) or (b) motion that would have suspended the appeal period. See FED. R. APP. P. 4(a)(4)(A); Harcon Barge Co., Inc. v. D & G Boat Rentals, Inc., 784 F.2d 665, 667-68 (5th Cir. 1986) (en banc); Huff v. Int'l Longshoremen's Ass'n, Local No. 24, 799 F.2d 1087, 1089-90 (5th Cir. 1986).

APPEAL DISMISSED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.