

**FILED**

June 23, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-51040  
Conference Calendar

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MARGARET LOUISE BALLARD,  
also known as Precious Jones,

Plaintiff-Appellant,

versus

WALNUT CREEK MINING; PHILLIPS COAL COMPANY,  
also known as Phillips Petroleum Co.;  
SMITH & BRATCHER, INC.; JOHN DOE,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. W-03-CV-35  
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Before BARKSDALE, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Margaret Ballard moves for permission to appeal in forma pauperis (IFP) the dismissal of her complaint for damages pursuant to 28 U.S.C. § 1915(e)(2)(B) as barred by the statute of limitations. Ballard's notice of appeal, however, was untimely filed, and the district court did not err in denying her motion to reopen the period for filing a notice of appeal. See FED. R. APP. P. 4(a)(6); Latham v. Wells Fargo Bank, N.A., 987 F.2d

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

1199, 1202 (5th Cir. 1993). We are therefore without jurisdiction to entertain her appeal. See United States v. Merrifield, 764 F.2d 436, 437 (5th Cir. 1985). Her IFP motion is therefore DENIED and the APPEAL DISMISSED.