

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

October 15, 2009

Charles R. Fulbruge III  
Clerk

---

No. 08-20421  
Summary Calendar

---

ROY A BROWN, also known as John Doe

Plaintiff-Appellant

v.

LOUISIANA CORRECTIONAL SERVICES; DOCTOR JOSE LOZANO;  
BURENO, Nurse; BAXTER INTERNATIONAL

Defendants-Appellees

---

Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:08-CV-823

---

Before JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:\*

Roy A. Brown, federal prisoner # 31532-179, appeals the dismissal as frivolous his 42 U.S.C. § 1983 law suit alleging the denial of adequate medical care. This court must examine the basis of its jurisdiction sua sponte if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A timely notice of appeal is mandatory and jurisdictional in a civil case. *Bowles v. Russell*, 551 U.S. 205, 207-13 (2007). The notice of appeal in a civil action must be filed

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

within 30 days of entry of the judgment or order from which the appeal is taken. 28 U.S.C. § 2107(a); FED. R. APP. P. 4(a)(1)(A). Brown filed his notice of appeal more than 30 days after the order dismissing his case was entered.

This court previously construed Brown's notice of appeal as a motion to reopen the appeal period under FED. R. APP. P. 4(a)(6), and remanded the case to make findings on the circumstances surrounding the notice of the district court's judgment and when he mailed his notice of appeal. The district court complied with the court's remand order but did not rule on whether Brown's appeal should be reopened pursuant to Rule 4(a)(6). We hereby remand this case to the district court for the limited purpose of determining whether Brown's appeal should be reopened pursuant to Rule 4(a)(6). The district court is directed to return the case to this court for further proceedings or dismissal, as appropriate, once the ruling has been made.

LIMITED REMAND.