

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

United States Court of Appeals
Fifth Circuit

FILED

October 19, 2018

Lyle W. Cayce
Clerk

No. 17-30789

Summary Calendar

STEVEN ANTHONY WALCOTT, JR.,

Plaintiff - Appellant

v.

PAT NAQUIN; TERREBONNE PARISH JAIL MEDICAL DEPARTMENT;
RICHARD NEAL, Head Nurse/Doctor; TERREBONNE PARISH
CONSOLIDATED GOVERNMENT,

Defendants - Appellees

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:16-CV-15587

Before BARKSDALE, ELROD, and HO, Circuit Judges.

PER CURIAM:*

Proceeding *pro se* and *in forma pauperis*, Steven Anthony Walcott, Jr., Terrebonne Parish # 51734 and Louisiana prisoner # 344820, contests the dismissal of his 42 U.S.C. § 1983 complaint as frivolous and for failure to state a claim on which relief can be granted. He contends defendants were

* Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.

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deliberately indifferent to his serious medical needs by denying him effective and immediate dental care.

We must, however, determine *sua sponte* whether we have jurisdiction to review this appeal. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A timely appeal is a jurisdictional prerequisite if, as here, the time limit is set by statute. *Hamer v. Neighborhood Hous. Servs. of Chi.*, 138 S. Ct. 13, 16 (2017); *Bowles v. Russell*, 551 U.S. 205, 214 (2007); 28 U.S.C. § 2107(a).

In a civil matter, a notice of appeal must be filed within 30 days of entry of the judgment or order being appealed. 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A). The final judgment dismissing Walcott's complaint was entered on 22 August 2017. Walcott averred he placed his notice of appeal in the prison mailing system on 25 September 2017. *See Stoot v. Cain*, 570 F.3d 669, 671 (5th Cir. 2009) (prison mailbox rule). Therefore, Walcott's notice of appeal is untimely.

Although his appeal was filed within the 30-day period to seek an extension of time based on excusable neglect or good cause, Fed. R. App. P. 4(a)(5)(A), his notice of appeal is not such a request because he did not provide any explanation for his late filing, *see Durham v. Anderson*, 699 F. App'x 389, 389 (5th Cir. 2017); *Nichols v. Hickman*, 699 F. App'x 330, 330–31 (5th Cir. 2017). Therefore, this appeal is dismissed for lack of jurisdiction. *See Hamer*, 138 S. Ct. at 16; *Bowles*, 551 U.S. at 215.

DISMISSED.