

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

No. 18-20018
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 20, 2018

Lyle W. Cayce
Clerk

JAMES EVERETT GRESSETT,

Plaintiff-Appellant

v.

SHERIFF'S DEPARTMENT OFFICERS PRECINCT 4, Officer #1, #2, #3, #4,

Defendant-Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:16-CV-214

Before KING, SOUTHWICK, and ENGELHARDT, Circuit Judges.

PER CURIAM:*

James Everett Gressett, Texas prisoner # 02056761, appeals the district court's dismissal of his 42 U.S.C. § 1983 complaint wherein he raised claims of negligence, deliberate indifference, and excessive force. Gressett's notice of appeal of the final judgment dismissing his § 1983 complaint was not timely. *See* FED. R. APP. P. 4(a)(1) (setting a 30-day period for noticing an appeal). Gressett did not seek to extend the time to appeal and did not file a

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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postjudgment motion within 28 days from the judgment under Federal Rule of Civil Procedure 59(e), which would have brought the underlying judgment up for review. *See Harcon Barge Co. v. D & G Boat Rentals, Inc.*, 784 F.2d 665, 668-69 (5th Cir. 1986) (en banc). Because the appeal was not timely filed, the appeal is DISMISSED FOR LACK OF JURISDICTION. *See* FED. R. APP. P. 4(a)(1); *In re Deepwater Horizon*, 785 F.3d 1003, 1009 (5th Cir. 2015).