

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-2696  
Summary Calendar

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THOMAS JOE MILLER-EL,

Plaintiff-Appellant,

versus

JAMES A. LYNAUGH ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 90-878

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(May 6, 1994)

Before JOHNSON, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:<sup>1</sup>

This Court must examine the basis of its jurisdiction on its own motion if necessary. Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). Rule 4(a)(1), Fed. R. App. P., requires that the notice of appeal in a civil action be filed within 30 days of entry of the judgment or order from which appeal is taken. In this civil rights action, the district court entered final judgment on July 13, 1993.

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<sup>1</sup> Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Therefore, the final day for filing a timely notice of appeal was August 12, 1993. Plaintiff's pro se notice of appeal is dated September 3, 1993, and stamped as filed on September 7, 1993. Based on the date specified in the notice of appeal it could not have been deposited in the prison mail system within the prescribed time. See Fed. R. App. P. 4(c) (a prisoner's pro se notice of appeal is deemed timely filed if deposited in the institution's internal mail system on or before the last day for filing). The time limitation for filing a notice of appeal is jurisdictional, and the lack of a timely notice mandates dismissal of the appeal. Robbins v. Maggio, 750 F.2d 405, 408 (5th Cir. 1985).

APPEAL DISMISSED.