

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3810

Summary Calendar

ALBERT J. BELL,

Plaintiff-Appellant,

versus

LOUISIANA DEPARTMENT OF PUBLIC SAFETY
AND CORRECTIONS, ET AL.,

Defendant-Appellee.

Appeals from the United States District Court
for the Eastern District of Louisiana
(91-CV-2191 "L" (5))

(July 27, 1994)

Before KING, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

A magistrate judge entered a final judgment for the defendants on October 18, 1993, and Bell did not file a notice of appeal until November 19. The notice of appeal is untimely and this court lacks jurisdiction.

Bell contends that because he filed a motion to extend time with the untimely notice, and because the district judge granted

*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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

that motion, his notice of appeal was made timely. See Cuevas v. Reading & Bates Corp., 770 F.2d 1371, 1377 (5th Cir. 1985), overruled in part on other grounds, In re Air Crash Disaster Near New Orleans, La., 821 F.2d 1147 (5th Cir. 1987). This argument fails because the motion was submitted to the wrong authority.

In August 1992, Albert Bell consented to proceed before a magistrate judge, agreeing "to have a full-time United States Magistrate Judge conduct any and all further proceedings in the case, including but not limited to . . . final judgment." The district judge then entered an order referring "all proceedings" to a magistrate judge. When the district judge subsequently granted the extension of time, he did not note "good cause" for vacating the referral as required by 28 U.S.C. § 636(c)(6); indeed, he subsequently entered an order vacating the extension because the "original order [was] properly before Magistrate Chasez rather than this Court" Absent an order under § 636(c)(6), the case remained before the magistrate judge and his ruling denying an extension of time controls.

DISMISSED.