

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-5362  
Summary Calendar

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LARRY LEE PORTLEY,

Plaintiff-Appellant,

versus

BOBBY WEAVER, ET AL.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Texas  
(6:92-CV-682)

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(April 21, 1994)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:\*

The appellees contend that we must dismiss this appeal for lack of jurisdiction. We agree.

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 prisoner civil rights action, the final judgment was entered on June 23, 1993. Therefore, the final day for filing a timely notice of appeal was July 23, 1993. Portley's *pro se* notice of appeal is

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\* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

dated as prepared on September 19, 1993, and is stamped as filed on September 22, 1993. Based on the date Portley signed 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. *E.g., Robbins v. Maggio*, 750 F.2d 405, 408 (5th Cir. 1985).

The appeal is, therefore,

**DISMISSED.**