

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-30227

Summary Calendar

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CHARLES MARSHALL,

Plaintiff-Appellant,

versus

DEPARTMENT OF CORRECTIONS and  
OFFICE OF PROBATION & PAROLE,

Defendants-Appellees,

and

CHARLES MARSHALL,

Plaintiff-Appellant,

versus

DEPARTMENT OF CORRECTIONS, OFFICE  
OF PROBATION & PAROLE, ISAAC WRIGHT,  
Parole Officer, and LOUISIANA  
DEPARTMENT OF PUBLIC SAFETY AND  
CORRECTIONS/DIVISION OF PROBATION  
AND PAROLE

Defendants-Appellees.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
(CA 94-207 c/w 94-208 N)

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(August 24, 1994)

Before GARWOOD, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:\*

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\*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."

Charles Marshall, a prisoner confined within the Louisiana Department of Corrections (DOC), filed separate civil rights actions pro se against the DOC and the Office of Probation and Parole (OOPP), and against the OOPP and parole officer Isaac Wright, alleging that his detention is illegal. The district court entered a final judgment dismissing Marshall's suits without prejudice on March 17, 1994. Marshall filed a motion to reconsider on April 6, 1994 and filed a brief with this Court on May 9, 1994.

Because the requirement of a notice of appeal is jurisdictional, this Court raises the issue on its own motion. Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). A document filed within the time allowed for taking an appeal should be construed as a notice of appeal if the document "clearly evinces the party's intent to appeal." Id. (internal quotation marks omitted). A motion to reconsider does not evince a sufficient intent to appeal. Id. (dismissing appeal even though appellant's motion to reconsider sought leave to appeal if court denied reconsideration); Washington v. Patlis, 868 F.2d 172, 174 (5th Cir. 1989) (same).

An appellate brief can qualify as a notice of appeal. Smith v. Barry, 112 S. Ct. 678 (1992). Even if Marshall's brief would otherwise qualify as a notice of appeal, however, it is ineffective to appeal until the district court disposes of the pending motion to reconsider. Fed. R. App. P. 4(a)(4). Because Marshall has not

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

filed an effective notice of appeal, the case is DISMISSED as improperly docketed.