

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50822
Summary Calendar

DEBRA L. TATE,

Plaintiff-Appellant,

versus

FAY WILSON, Major, ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-94-CA-297
- - - - -

(May 4, 1995)

Before JOLLY, DUHÉ, and BARKSDALE, Circuit Judges.

PER CURIAM:*

If necessary, this Court must examine the basis of its jurisdiction on its own motion. 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 prisoner civil rights action, the final judgment was entered on November 15, 1994. Therefore, the final day for filing a timely notice of appeal was December 15, 1994. Tate's notice of appeal is dated as prepared on December 17, 1995, and

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

is stamped as filed on December 19, 1994. Based on the date provided by Tate, the notice of appeal 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.