

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-10161
Conference Calendar

JAMES D. BOSWELL,

Plaintiff-Appellant,

versus

WILLIAM COHEN, The Secretary of Defense; ET AL.,

Defendants,

TEXAS CHRISTIAN UNIVERSITY; WILLIAM E. TUCKER, DR.,
Chancellor; MICHAEL D. McCRACKEN, Dean,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:98-CV-168-Y

December 16, 1999

Before JOLLY, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

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). A timely notice of appeal is a prerequisite for the exercise of jurisdiction by this court. *United States v. Carr*, 979 F.2d 51, 55 (5th Cir. 1992). A petitioner has 60 days from

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

the entry of judgment to appeal from the dismissal of a civil action in which the Government, its agencies, or officers are parties. FED. R. APP. P. 4(a)(1). "A document filed in the period prescribed by Fed. R. App. P. 4(a)(1) for taking an appeal should be construed as a notice of appeal if the document 'clearly evinces the party's intent to appeal.'" *Mosley*, 813 F.2d at 660. A pleading that seeks reconsideration of an order of the district court is not effective as a notice of appeal, even if labeled a notice of appeal. *Id.*

In his notice of appeal and accompanying memorandum, James Boswell requested that the district court compel discovery, vacate the order denying him an extra day to respond to the defendants' summary judgment motion, and schedule a hearing on the summary judgment motion. Boswell's notice of appeal did not clearly evince his intent to appeal, and Boswell filed no pleading subsequent to his notice of appeal that could be construed as a notice of appeal. We lack jurisdiction over Boswell's appeal. Finally, Boswell's motion to supplement his reply brief with an appendix is DENIED.

APPEAL DISMISSED.