

United States Court of Appeals for the Fifth Circuit

No. 23-11269
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 17, 2024

Lyle W. Cayce
Clerk

DENNIS HALEY,

Plaintiff—Appellant,

versus

TAYLOR COUNTY DETENTION CENTER; RICKY BISHOP, *Sheriff*;
FNU NORETTE, *Chief*; TIM TRAWICK, *Captain*; UNKNOWN
OFFICERS, *Taylor County Detention Center*; UNKNOWN NURSE;
UNKNOWN PHYSICIAN'S ASSISTANTS, *Taylor County Detention
Center*; J. ISBELL, *Corporal*; FNU OLSEN, *Sergeant*; A. LEWIS,
Officer; J. WINEGEART, *Officer*; FNU SHANNON, *Physician's
Assistant*; JOHN DOE #1, *Unidentified Officers Working F-pod cell block on
February 29*; JOHN DOE #2, *Unidentified Officers from D-Separation
involved in February Espisode*; JOHN DOE #3, *Unknown Physician Assistant*,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:21-CV-138

Before SOUTHWICK, HAYNES, and HIGGINSON, *Circuit Judges*.

No. 23-11269

PER CURIAM:*

A magistrate judge, acting by consent, dismissed a 42 U.S.C. § 1983 action filed by Dennis Haley, Texas prisoner # 2359877. Haley now moves for this court to grant him leave to proceed in forma pauperis (IFP) on appeal so that he may challenge this ruling. The magistrate judge denied IFP status, concluding that Haley had not filed a timely notice of appeal. A timely notice of appeal is a jurisdictional requirement in a civil action. *Bowles v. Russell*, 551 U.S. 205, 214 (2007). In a civil matter, a notice of appeal must be filed within 30 days of entry of the judgment or order being appealed. FED. R. APP. P. 4(a)(1)(A).

The district court entered its judgment dismissing Haley's complaint on October 2, 2023. Haley's notice of appeal is dated December 19, 2023, which is more than 30 days after the entry of judgment. Haley's post-judgment motion, filed more than 28 days after the entry of judgment, did not extend the time for filing the notice of appeal. *See* FED. R. APP. P. 4(a)(4)(A)(iv)-(vi). Moreover, Haley's notice of appeal was dated before the district court ruled on his post-judgment motion and addressed only the judgment entered on October 2, 2023; thus, the appeal did not encompass the denial of that motion. *See* FED. R. APP. P. 4(a)(4)(B)(ii).

As Haley's notice of appeal is untimely, his IFP motion is DENIED, and the appeal is DISMISSED for lack of jurisdiction. *See* FED. R. APP. P. 4(a)(1)(A); *Bowles*, 551 U.S. at 214.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.