

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40180
Conference Calendar

CARREL MOTLEY, JR.,

Plaintiff-Appellant,

versus

CHARLES MARTIN ET AL.,

Defendant-Appellee.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:93 CV 156
- - - - -
(September 22, 1994)

Before KING, SMITH, and BENAVIDES, 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). The time limitation for filing a notice of appeal is a mandatory precondition to the exercise of appellate jurisdiction, and the lack of a timely notice mandates dismissal of the appeal. United States v. Garcia-Manchado, 845 F.2d 492, 493 (5th Cir. 1988); Mann v. Lynaugh, 840 F.2d 1194, 1197 (5th Cir. 1988).

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

The district court's judgment dismissing Carrel Motley, Jr.'s, civil rights complaint as frivolous was entered on January 12, 1994. Thus, the final day for filing a timely notice of appeal was Friday, February 11, 1994. See Fed. R. App. P. 4(a)(1); Fed. R. App. P. 26(a). Motley states that he delivered his notice of appeal in the prison mail system on February 14, 1993; therefore, under the Federal Rules of Appellate Procedure governing prisoner appeals, Motley's notice of appeal was untimely. See Fed. R. App. P. 4(c). Accordingly, Motley's appeal is DISMISSED. See Garcia-Manchado, 845 F.2d at 493.