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Nos. 08-1495/1514

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

03-75106

**FILED**  
Jul 28, 2008  
LEONARD GREEN, Clerk

STEVEN BRODER, )  
 )  
 Plaintiff-Appellee, )  
 )  
 v. )  
 )  
 JAN EPPS, Regional Medical Director; GEORGE )  
 PRAMSTALLER, Medical Director, )  
 )  
 Defendants-Appellants. )

ORDER  
FILED  
JUL 29 2008  
CLERK'S OFFICE  
DETROIT

Before: COLE and CLAY, Circuit Judges; RUSSELL, District Judge.\*

In this prisoner civil rights action, the district court entered an order on March 14, 2008, which, in part, denied the defendants' motion for summary judgment on grounds of qualified immunity on the plaintiff's claim under the Eighth Amendment for denial of proper medical care. The defendants filed a notice of appeal on Monday, April 14, 2008, which has been docketed as Case No. 08-1495. That notice of appeal does not list the order appealed from as required by Fed. R. App. P. 3(c)(1)(B). The following day, the defendants filed a second notice of appeal, which has been docketed as Case No. 08-1514. Although the April 15 notice of appeal complies with Fed. R. App. P. 3(c) by stating that the defendants appeal the March 14 order, it was not filed within thirty days of the March 14 order as required by Fed. R. App. P. 4(a)(1).

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\*The Honorable Thomas B. Russell, United States District Judge for the Western District of Kentucky, sitting by designation.

On April 24, 2008, the defendants were directed to show cause why Case No. 08-1495 should not be dismissed for failure to comply with Rule 3(c)(1)(B) and why Case No. 08-1514 should not be dismissed as late. The defendants did not file a motion for an extension of time to appeal in the district court pursuant to Fed. R. App. P. 4(a)(5). The defendants assert that they did not receive a copy of the April 24 show cause order that was mailed to them on the date of its entry. On June 4, 2008, they filed a motion for an extension of time to respond and a response to the show cause order. The plaintiff objects to the court's consideration of the defendants' response to the show cause order. Because there is some question as to when the defendants received the April 24 order, we will consider their June 4 response.

The defendants do not address the fact that the April 14 notice of appeal does not designate the order appealed from as required by Fed. R. App. P. 3(c)(1)(B). A notice of appeal that does not designate an appealable order or judgment does not comply with Rule 3(c)(1)(B). *See Isert v. Ford Motor Co.*, 461 F.3d 756, 760-61 (6th Cir. 2006); *United States v. Glover*, 242 F.3d 333, 336-37 (6th Cir. 2001). The April 14 notice of appeal, therefore, does not perfect an appeal from the March 14 order.

The defendants argue that the April 15 notice of appeal was timely filed because, pursuant to Fed. R. App. P. 26(c), an additional three days for mailing is added to the thirty-day appeal period of Fed. R. App. P. 4(a)(1). An additional three days is added to a time period only "when a party is required or permitted to act within a prescribed period after a paper *is served* on that party." Rule 26(c) (emphasis added). Fed. R. App. P. 4(a)(1)(A) requires that a notice of appeal be filed within 30 days after the *entry* of the order appealed from. The additional three-day period for mailing is not applicable in calculating the time for filing a notice of appeal. *See Ludgood v. Apex Marine Corp. Ship Mgmt.*, 311 F.3d 364, 367 (5th Cir. 2002); *Hunter v. McWeeney*, 64 F.3d 663 (Table) (6th Cir.

Nos. 08-1495/1514

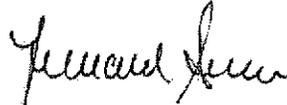
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1995) (unpublished order); *Walls v. McClure*, 911 F.2d 734 (Table) (6th Cir. 1990) (unpublished order); *Sofarelli Assocs., Inc. v. United States*, 716 F.2d 1395, 1396 (Fed. Cir. 1983).

The time limits for filing a notice of appeal set forth in Rule 4(a)(1) are mandatory. See *Bowles v. Russell*, 127 S. Ct. 2360, 23 (2007). The April 15 notice of appeal does not impart appellate jurisdiction on this court, and this court lacks the authority to grant an extension of time to appeal. See Fed. R. App. P. 26(b)(1).

These appeals are **DISMISSED** *sua sponte* for lack of jurisdiction.

ENTERED BY ORDER OF THE COURT

A handwritten signature in cursive script, appearing to read "Leonard Green".

Leonard Green  
Clerk

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

Leonard Green  
Clerk

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Filed: July 28, 2008

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Re: Case No. 08-1495, *Steven Broder v. Jan Epps, et al*  
Originating Case No. : 03-75106

Dear Counsel:

The Court issued the enclosed (Order/Opinion) today in this case.

Sincerely yours,

s/Kathryn Kasner  
Case Manager  
Direct Dial No. 513-564-7014  
Fax No. 513-564-7096

cc: Honorable Marianne O. Battani  
Mr. David J. Weaver

Enclosure