

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-1477

APRIL TAYLOR,

Plaintiff - Appellant,

v.

CITY OF COLONIAL HEIGHTS,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of Virginia, at
Richmond. Robert E. Payne, Senior District Judge. (3:18-cv-00254-REP)

Submitted: August 20, 2019

Decided: August 22, 2019

Before FLOYD and RUSHING, Circuit Judges, and SHEDD, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

April Taylor, Appellant Pro Se. Michael Christopher Litman, HARMAN CLAYTOR
CORRIGAN & WELLMAN, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

April Taylor seeks to appeal the district court's order granting Defendant's motion to dismiss Taylor's civil complaint. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

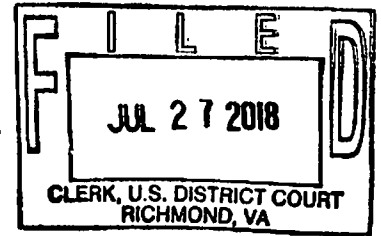
Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

The district court's order was entered on the docket on July 27, 2018. The notice of appeal was filed on April 18, 2019.* Because Taylor failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny leave to proceed in forma pauperis and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

* Taylor filed an earlier notice of appeal on January 30, 2019, with the United States Court of Appeals for the Federal Circuit. Even considered filed on that date, her notice of appeal still would be untimely.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



APRIL TAYLOR,

Plaintiff,

v.

Civil Action No. 3:18cv254

CITY OF COLONIAL HEIGHTS,

Defendant.

ORDER

Having reviewed the Complaint (entitled "Petition") filed herein (ECF No. 1-1), the DEFENDANT CITY OF COLONIAL HEIGHTS' RULE 12(b) (6) MOTION TO DISMISS (ECF No. 3), the supporting memorandum, the other papers filed in the case by the plaintiff, and finding that the Complaint, generously construed, asserts a claim intended to be brought under 42 U.S.C. § 1983 seeking to hold the City of Colonial Heights liable for the actions of a police officer that are alleged to have violated the plaintiff's Fourth Amendments rights, and it being clearly the law that a municipality cannot be vicariously liable for the actions of police officers under the circumstances alleged in the Complaint, Monell v. Dep't of Soc. Serv. of City of N.Y., 436 U.S. 658, 694 (1978); Carter v. Morris, 164 F.3d 215, 218 (4th Cir. 1999), and it appearing that the prerequisites of municipality liability have not been pled, it is hereby ORDERED that

the federal claim be dismissed with prejudice. To the extent that the plaintiff intends to assert state law claims, this Court declines to exercise jurisdiction under 28 U.S.C. § 1367 and those claims are dismissed without prejudice.

For the above stated reasons, the DEFENDANT CITY OF COLONIAL HEIGHTS' RULE 12(b)(6) MOTION TO DISMISS (ECF No. 3) is granted.

It is further ORDERED that the facts and legal contentions are adequately presented in the materials before the Court and oral argument would not aid the decisional process.

Any appeal from this decision must be taken by filing a written notice of appeal with the Clerk of the Court within thirty (30) days of the date of entry hereof. Failure to file a timely notice of appeal may result in the loss of the right to appeal.

The Clerk is directed to send a copy of this Order to the plaintiff.

It is so ORDERED.

_____/s/ *REP*_____
Robert E. Payne
Senior United States District Judge

Richmond, Virginia
Date: July 26, 2018

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-1588

APRIL TAYLOR,**Plaintiff - Appellant,****v.****ANTIONETTE V. IRVING, Sheriff for the City of Richmond,****Defendant - Appellee.**

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. John A. Gibney, Jr., District Judge. (3:18-cv-00474-JAG)

Submitted: September 24, 2019

Decided: September 26, 2019

Before WYNN and HARRIS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

April Taylor, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

April Taylor seeks to appeal the district court's order dismissing with prejudice her civil complaint for failure to comply with a court order. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded 30 days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5), or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

The district court's final order was entered on the docket on September 26, 2018. The notice of appeal was filed, at the earliest, on May 17, 2019.* Because Taylor failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

* The notice of appeal was received by the United States Court of Appeals for the Federal Circuit on May 17, 2019, and thereafter forwarded to the appropriate district court. See Fed. R. App. P. 4(d) (providing notice of appeal mistakenly filed in court of appeals is considered filed in district court on date so noted).

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

APRIL TAYLOR,

Plaintiff,

v.

Civil Action No. 3:18-cv-00474-JAG

ANTIONETTE V. IRVING,

Defendant.

ORDER

This matter comes before the Court on its own initiative. On July 31, 2018, the Court granted the plaintiff's Motion for Leave to Proceed *in forma pauperis* and directed the plaintiff to file an amended complaint within twenty-one (21) days. (Dk. No. 5.) The Court also warned the plaintiff that failure to comply strictly with the listed requirements would result in dismissal of the case. The plaintiff failed to file an amended complaint. On August 30, 2018, the Court extended the plaintiff's time, again directing the plaintiff to file an amended complaint within twenty-one (21) days. (Dk. No. 6.) The deadline for the plaintiff to file an amended complaint has passed. Accordingly, the Court DISMISSES the case WITH PREJUDICE.

Should the plaintiff wish to appeal this Order, she must file written notice of appeal with the Clerk of Court within thirty (30) days of the date of this Order. Failure to file a notice of appeal within this period may result in the loss of the right to appeal.

It is so ORDERED.

Let the Clerk send a copy of this Order to the pro se plaintiff via U.S. Mail.

Date: September 26, 2018
Richmond, Virginia



John A. Gibney, Jr.
United States District Judge

**Additional material
from this filing is
available in the
Clerk's Office.**