

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1931

STATE OF MARYLAND,

Plaintiff - Appellee,

v.

XUAN PENG,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Lydia Kay Griggsby, District Judge. (8:25-cv-01210-LKG)

Submitted: December 18, 2025

Decided: December 22, 2025

Before NIEMEYER and BERNER, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed and remanded by unpublished per curiam opinion.

Xuan Peng, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Xuan Peng seeks to appeal the district court's order construing her notice of removal as a 42 U.S.C. § 1983 complaint and dismissing the action as frivolous. We dismiss the appeal for lack of jurisdiction.

The district court issued its order on June 11, 2025. Because the court did not enter its judgment on a separate document, the judgment is deemed entered 150 days later—i.e., on November 8, 2025. *See* Fed. R. Civ. P. 58(c)(2)(B). Prior to the judgment's entry, on July 11, Peng timely filed a Fed. R. Civ. P. 59(e) motion to alter or amend the judgment. The court has not ruled on that motion. Weeks later, on August 9, Peng noted this appeal.

Where, as here, a notice of appeal is filed while a Rule 59(e) motion is pending, the notice of appeal becomes effective only once the Rule 59(e) motion is resolved. Fed. R. App. P. 4(a)(4)(B)(i). Because the district court has not ruled on Peng's Rule 59(e) motion, the notice of appeal is not yet effective. Accordingly, we dismiss the appeal for lack of jurisdiction and remand to the district court for consideration of Peng's Rule 59(e) motion.

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 AND REMANDED