NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted July 24, 2023*
Decided July 25, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-2980

JASPER FRAZIER,
Petitioner-Appellant,

v.

CHRISTINA REAGLE, Commissioner of the Indiana Department of Correction,
Respondent-Appellee.

Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division.

No. 1:21-cv-01011-RLY-TAB

Richard L. Young,
Judge.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

O R D E R

Jasper Frazier, who is in the custody of the Indiana Department of Correction,[1] petitioned for a writ of habeas corpus to challenge disciplinary proceedings against him. The district court denied his petition. Several months later, the court granted Frazier's motion to reopen the appeal under Federal Rule of Appellate Procedure 4(a)(6) so that he could file a notice of appeal. Because Frazier did not timely request this relief, we dismiss this appeal for lack of jurisdiction.

In February 2021, Frazier was charged with possessing a deadly weapon—a six-inch piece of sharpened metal. According to the conduct report, Frazier admitted that the weapon was his, and he still concedes this, though he insists he needed it for self-defense. After a prison disciplinary hearing, a hearing officer found him guilty and revoked 180 days of good-time credit and demoted him to a lower time-earning class.

Frazier filed a petition for a writ of habeas corpus, *see* 28 U.S.C. § 2254, arguing that prison officials deprived him of due process in the disciplinary proceedings. He asserted generally that the proceedings did not comply with applicable policies, that the hearing officer was biased, and that the evidence of his guilt was insufficient.

On June 6, 2022, the district court denied Frazier's petition and issued a separate order of judgment. The public docket entry accompanying the judgment order states: "Mr. Frazier's petition for writ of habeas corpus is denied and the action is dismissed with prejudice." Seven days after the entry of judgment, the district court received a notice of change of address from Frazier.

On August 15, the court received correspondence from Frazier requesting a copy of the docket sheet, and it mailed him a copy the same day. On September 26, the court received another notice of change of address and request for the docket sheet. The next day, the court sent Frazier a copy. Another request for a docket sheet and "any latest rulings," dated October 3, arrived on October 11. The court again sent the docket sheet.

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[1] Frazier is currently incarcerated in New Jersey under the Interstate Corrections Compact, which permits Indiana to contract with another state to house an Indiana prisoner. *See* IND. CODE § 11-8-4-3. But Indiana remains his state of custody, and its Department of Correction controls the dates of his release to parole or probation and of his discharge from custody. *See id.* § 11-8-4-6.

On October 20, the court received what Frazier titled a "Motion to Inform," reporting that he had never received the orders denying his petition and entering final judgment. He asked the court to reopen the time to appeal under Federal Rule of Appellate Procedure 4(a)(6). He also attached a copy of the docket sheet; based on the last entry and print date, it appears to be the copy the court mailed on September 27.

The district court granted the motion and treated it as Frazier's notice of appeal. The court stated that Frazier "assert[ed] that he did not receive notice of the judgment under Rule 77(d) of the Federal Rules of Civil Procedure, he filed his motion less than 180 days after the entry of judgment, and no party would be prejudiced."

We ordered the parties to submit supplemental briefing addressing the timeliness of the appeal. Frazier generally argues that the district court properly applied Rule 4(a)(6). The Commissioner asserts that the appeal was untimely because Frazier waited too long after learning of the judgment to file a motion to reopen.

Whether the district court permissibly reopened the time to appeal is a jurisdictional question that we must address before the merits. *See Hamer v. Neighborhood Hous. Servs. of Chi.*, 138 S. Ct. 13, 21 (2017). Frazier had 30 days to appeal the June 6 judgment. *See* FED. R. APP. P. 4(a)(1)(A); RULES GOVERNING SECTION 2254 CASES, Rule 11(b). (By operation of the prison mailbox rule, *see* FED. R. APP. P. 4(c), Frazier needed to place the appeal in the prison's mail system within 30 days—the district court did not have to receive it within that timeframe.) His functional notice of appeal, which the court docketed on October 20 was, consequently, months late.

But under 28 U.S.C. § 2107(c), a district court may reopen a party's time to appeal when the party did not receive timely notice of the judgment and other requirements are met. *See Hamer*, 138 S. Ct. at 19. Federal Rule of Appellate Procedure 4(a)(6), which implements § 2107(c), *see Bowles v. Russell*, 551 U.S. 205, 208 (2007), permitted the district court to grant Frazier's motion to reopen if, as relevant here, the motion was filed within *the earlier of* 180 days after the entry of judgment or 14 days from Frazier's receipt of "notice under Federal Rule of Civil Procedure 77(d)."

Here, this requirement was not met, and the district court therefore lacked the authority to reopen the time for appeal. *See Armstrong v. Louden*, 834 F.3d 767, 769–70 (7th Cir. 2016). The district court explained that "Frazier assert[ed] that he did not receive notice of the judgment under Rule 77(d)" and "he filed his motion less than 180 days after the entry of judgment." But Frazier *did* receive notice at some point: He attached to his motion to reopen a docket sheet that showed the entry of judgment, and a docket entry may provide sufficient notice. *See id.* at 768–69. Thus, even assuming that

Frazier did not learn in June that his petition had been denied, the only question would be whether he filed his motion within 14 days of receiving a copy of the docket sheet.

The district court did not address this question, but we need not remand for a factual finding because the record "permits only one finding." *Matter of Marchiando*, 13 F.3d 1111, 1114 (7th Cir. 1994). Frazier admits in both of his jurisdictional memoranda on appeal that he "received docket sheet September 26/27, 2022, when he first learn[ed] that the case was denied with prejudice." (Though the case number is wrong in his opening jurisdictional memorandum, he later gave September 27 again as the date he learned of the judgment.) Frazier further explains in his reply jurisdictional memorandum that, although he had learned about the judgment earlier, he did not realize he could appeal until he was transferred to a different prison in October and learned the rule from a fellow prisoner. But we presume that litigants are aware of legal rules. *See Pearle Vision, Inc. v. Romm*, 541 F.3d 751, 758 (7th Cir. 2008) (pro se litigants not excused from complying with procedural rules). Regardless, the 14-day period cannot be extended. *See Armstrong*, 834 F.3d at 770.

After learning of the judgment on September 27, Frazier needed to file his motion to reopen no later than October 11. Even with the benefit of the prison mailbox rule, *see* FED. R. APP. P. 4(c), the earliest possible date Frazier can be deemed to have filed his motion to reopen is October 17, which is too late. Because this motion—the functional notice of appeal—was untimely, we lack appellate jurisdiction.

DISMISSED