

NONPRECEDENTIAL DISPOSITION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 November 21, 2023*

Decided November 22, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 23-1459

CHARMAINE HAYES,
Plaintiff-Appellant,

v.

NORTHWESTERN MEMORIAL
HOSPITAL, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 22-cv-04977

Andrea R. Wood,
Judge.

* The defendants were not served with process in either case and are not participating in the appeals. We have agreed to decide the cases without oral argument because the briefs and records adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

No. 23-2202

CHARMAINE HAYES,
Plaintiff-Appellant,

v.

NORTHWESTERN MEMORIAL
HOSPITAL, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 23-cv-1899

Charles P. Kocoras,
Judge.

ORDER

Several months apart, Charmaine Hayes filed substantially similar complaints against Northwestern Memorial Hospital,¹ alleging employment discrimination. The two cases were assigned to separate district judges, who dismissed the respective complaints as untimely. Hayes appeals both dismissals, and by prior order, we consolidated the appeals for briefing and disposition. We must dismiss one appeal for lack of appellate jurisdiction: The notice of appeal was untimely, and Hayes gave the district judge no reason to grant an extension of time. In the second appeal, we affirm the dismissal of the complaint as untimely.

Hayes alleged in her complaints that Northwestern Memorial Hospital violated 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a), by wrongfully terminating her employment because of her race, color, religion, and sex. The first case was assigned to Judge Wood. She screened the complaint, *see* 28 U.S.C. § 1915(e)(2), and dismissed it because both the § 1981 and Title VII claims were untimely. Hayes filed a notice of appeal 38 days after the entry of the judgment.

While the first case was pending in the district court, Hayes filed a second, substantially similar complaint. This case was assigned to Judge Kocoras, who also dismissed Hayes's complaint as untimely. Hayes appealed that decision within 30 days of the judgment, as required by 28 U.S.C. § 2107(a).

¹ Hayes incorrectly named "Northwestern Medicine Hospital" as the defendant in her cases. Based on the address and other information she provided, we substitute the correct name of defendant as "Northwestern Memorial Hospital."

In a previous order, we recognized that the timing of Hayes's first notice of appeal created a potential jurisdictional problem. Hayes therefore asked the district court to extend the time for filing a notice of appeal under 28 U.S.C. § 2107(c), something she still had time to do. Hayes's motion did not state why she failed to file a timely notice of appeal or assert that good cause or excusable neglect, *see id.*, warranted an extension of time. Yet the district court granted Hayes's motion, stating briefly that Hayes was a pro se litigant and had expressed a desire to appeal.

Section 2107(a) sets forth a jurisdictional time limit requiring a party to file a notice of appeal within 30 days of the entry of the judgment being appealed, "[e]xcept as otherwise provided in this section." *See Nestorovic v. Metro. Water Reclamation Dist. of Greater Chicago*, 926 F.3d 427, 431 (7th Cir. 2019). We have held that the appellant's requirement to demonstrate good cause or excusable neglect to file an appeal outside the original deadline is also jurisdictional, and therefore we must consider for ourselves whether Hayes made this showing. *Id.* We review a district court's decision to extend the time to appeal for an abuse of discretion. *See id.* A district court need not expressly find good cause or excusable neglect to explain an extension of a litigant's appellate deadline, but we must be able to locate "an evident path from the record to the district court's discretionary decision." *Mayle v. Illinois*, 956 F.3d 966, 969 (7th Cir. 2020).

The record here is bare of any justification for Hayes's tardiness, and therefore the district court abused its discretion by extending her time for appealing. True enough, Hayes is a pro se litigant. But pro se status alone is not good cause, nor does it automatically make neglect "excusable." *See Nestorovic*, 926 F.3d at 432; *see also Pearle Vision, Inc. v. Romm*, 541 F.3d 751, 758 (7th Cir. 2008) (noting that it is "well established that pro se litigants are not excused from compliance with procedural rules"). And no other document signaled Hayes's intent to appeal within the original time for doing so; the belated notice of appeal is the first document in which Hayes gave the requisite notice. *Cf. Narty v. Franciscan Health Hosp.*, 2 F.4th 1020, 1024 (7th Cir. 2021); *Owens v. Godinez*, 860 F.3d 434, 437 (7th Cir. 2017).

Because nothing in the record hints at the good cause or excusable neglect that § 2107 requires, Hayes was not entitled to an extension of time, and her appeal is untimely. We therefore DISMISS appeal number 23-1459 for lack of appellate jurisdiction.

As to the second appeal, Hayes contends that the district court improperly dismissed her claims as untimely, but she does not rebut the court's reasoning. Under

Title VII, the plaintiff must file suit within 90 days of receiving a right to sue letter from the EEOC. *See* 42 U.S.C. § 2000e-5(f)(1); *Fort Bend County v. Davis*, 139 S. Ct. 1843, 1847 (2019). Here, Hayes’s right to sue letter was mailed on May 5, 2020. But she did not file suit until September 14, 2022—more than two years beyond the statutory period. In § 1981 cases, the statute of limitations is four years. *See* 28 U.S.C. § 1658; *Jones v. R.R. Donnelley & Sons Co.*, 541 U.S. 369, 382–84 (2004). Hayes alleges that she was terminated on September 7, 2018, and her firing is a discrete event that began the limitations clock. *See Riley v. Elkhart Cmty. Schs.*, 829 F.3d 886, 891 (7th Cir. 2016). She did not file suit until September 14, 2022—a week past the four-year deadline. Hayes was aware of the deadline, and she does not raise any argument that the statute of limitations should have been equitably tolled. We therefore AFFIRM the dismissal of Hayes’s complaint in appeal number 23-2202.