

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JUSTICE I. ALLAH,)
)
Plaintiff,)
)
vs.) CASE NO. 2:12cv637-WHA
)
CAPTAIN CHRISTBURG, et al.,) (wo)
)
Defendants.)

ORDER

This cause is before the court on the Order by the Eleventh Circuit Court of Appeals for this court to determine whether Mr. Allah merits a reopening of the appeal period under Rule 4(a)(6) of the Federal Rules of Appellate Procedure.

Rule 4(a)(6) provides as follows:

(6) Reopening the Time to File an Appeal. The district court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:
(A) the court finds that the moving party did not receive notice under Federal Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after entry;
(B) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under Federal Rule of Civil Procedure 77(d) of the entry, whichever is earlier; and
(C) the court finds that no party would be prejudiced.

As the court noted in its earlier Order denying the Motion for Leave to Appeal In Forma Pauperis (Doc. #72), the Order and Final Judgment entered on August 18, 2015 were mailed to Mr. Allah at the address he had given the court on December 21, 2012 and confirmed on January 28, 2013. (Doc. #59). Mr. Allah did not advise the court of a different address until September

21, 2015, at which time all pleadings and orders were mailed to Mr. Allah at the address furnished by him.

The court cannot conclude that the requirements of Rule 4(a)(6) for reopening the appeal have been met. As directed by the Eleventh Circuit Court of Appeals, it is hereby ORDERED that this case is returned, as supplemented by this Order, to the Eleventh Circuit Court of Appeals for further proceedings.

Done this 19th day of February, 2016.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE