

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

GREGORY BREWER

PLAINTIFF

v.

Civil No. 6:07-cv-6018

CHIEF HOLT; CAPTAIN MEL STEED

DEFENDANTS

ORDER

Now before the Court is Plaintiff's Third Motion for Extension of Time to file Belated Appeal (Doc. 54) and Motion for Appointment of Counsel (Doc. 55). The Court will construe this Motion as one to reopen the time to file an appeal pursuant to the Federal Rule of Appellate Procedure 4 (a) (6).

On October 28, 2008, the Court granted Plaintiff's first motion to reopen the time to file an appeal after finding Plaintiff did not receive notice of the Court's June 9, 2008 Order (Doc. 46) granting Defendants' Motion for Summary Judgment (Doc. 31) and dismissing the case with prejudice. Plaintiff was permitted fourteen (14) days to file his appeal (Doc. 51).

On April 1, 2009, the Court granted Plaintiff's second motion to reopen the time to file an appeal after finding Plaintiff did not receive notice of the Court's October 28, 2008 Order (Doc. 51) granting Plaintiff's first motion to reopen the time to file an appeal. Plaintiff was permitted fourteen (14) days to file his appeal (Doc. 53).

Plaintiff now moves for an additional thirty (30) days to file an appeal due to "the complexity of this case" and Plaintiff's limited knowledge and resources (Doc. 54). Federal Rule of Appellate Procedure 4(a)(6) governs when a Court may reopen the time to file an appeal. The Court may reopen the time to file an appeal for a period of fourteen (14) days only if: (1) the Court finds the

moving party did not receive notice of the judgment sought to be appealed within 21 days after entry; (2) the motion is filed within 180 days after the judgment is entered or within 7 days after the moving party receives notice of the entry; and (3) the court finds that no party would be prejudiced.

While the Court previously found Plaintiff did not receive notice of the judgment within 21 days after entry, Plaintiff's current motion is filed some nine (9) months after the entry of that judgment and well more than seven days after he finally received notice of the entry of that judgment. Accordingly, the Court finds that the requirements of Federal Rule of Appellate Procedure 4(a)(6) are not met, and Plaintiff's Motion should be DENIED. Further, Plaintiff's Motion to Appoint Counsel is DENIED AS MOOT.

IT IS SO ORDERED this **20th day of April 2009**.

/s/ Robert T. Dawson

HON. ROBERT T. DAWSON
UNITED STATES DISTRICT JUDGE