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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HORTENSE WHITE,
Plaintiff,

vs.

TRENONE VALARIE, et al.,
Defendants.

1:13-cv-00157-AWI-GSA-PC
(Appeal Case Number 13-17174)

FINDINGS AND RECOMMENDATION TO
DENY MOTION FOR EXTENSION OF
TIME TO FILE NOTICE OF APPEAL
(Doc. 60.)

OBJECTIONS, IF ANY, DUE WITHIN
TWENTY (20) DAYS

I. BACKGROUND

Hortense White (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff commenced this action on November 26, 2012, at the United States District Court for the Eastern District of Pennsylvania, as case 12-6599. (Doc. 1.) On January 31, 2013, the court for the Eastern District of Pennsylvania consolidated case 12-6599 [White v. Valarie] with case 12-6885 [White v. Central California Women’s Facility], and transferred the consolidated action to the United States District Court for the Eastern District of California. (Doc. 8.)

This case was dismissed on August 30, 2013, with prejudice, for failure to state a claim upon which relief may be granted under § 1983, and judgment was entered on August 30, 2013. (Docs. 53, 54.) On September 23, 2013, Plaintiff filed a document which the court construes as

1 a motion for extension of time to file an appeal. (Doc. 60.) On October 8, 2013, Plaintiff filed
2 a notice of appeal dated October 3, 2013, which was forwarded to the Ninth Circuit court on
3 October 25, 2013 and assigned case number 13-17174. (Docs. 56-59.)

4 Plaintiff's motion for extension of time to file an appeal is now before the court.

5 **II. EXTENSION OF TIME TO FILE NOTICE OF APPEAL – FED. R. APP. P. 4**

6 Under Rule 4(a) of the Federal Rules of Appellate Procedure, a notice of appeal must be
7 filed with the district clerk within thirty days after entry of the judgment or order appealed
8 from. Fed. R. App. P. 4(a)(1)(A). However, the district court may extend time to file a notice
9 of appeal if a party so moves no later than thirty days after the time for filing the notice of
10 appeal expires, and the party shows excusable neglect or good cause. Fed. R. App. P.
11 4(a)(5)(A).

12 Plaintiff filed her motion for extension of time on September 23, 2013, which is less
13 than thirty days after the time for appealing the court's order and judgment of August 30, 2013.
14 Therefore, Plaintiff's motion is timely under Rule 4(a)(1)(A). However, Plaintiff makes no
15 intelligible argument in support of her motion. Plaintiff has submitted a rambling, mostly
16 unintelligible 26-page motion, including exhibits, but Plaintiff fails to make any showing of
17 excusable neglect or good cause for an extension of time. Therefore, Plaintiff's motion must be
18 denied.

19 **III. RECOMMENDATION AND CONCLUSION**

20 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Plaintiff's motion
21 for extension of time to file an appeal, filed on September 23, 2013, be **DENIED**.

22 These Findings and Recommendation will be submitted to the United States District
23 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within
24 **twenty (20) days** after being served with these Findings and Recommendations, Plaintiff may
25 file written objections with the court. The document should be captioned "Objections to
26 Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file

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1 objections within the specified time may waive the right to appeal the District Court's order.
2 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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6 IT IS SO ORDERED.

7 Dated: November 8, 2013

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE