

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

STEVEN CIOTTA, Case No. 1:15-cv-01849-AWI-EPG-HC Petitioner, ORDER VACATING AUGUST 30, 2016 ORDER GRANTING EXTENSION OF TIME v. S. FRAUENHEIM, ORDER DENYING MOTIONS FOR **EXTENSION OF TIME** Respondent. (ECF Nos. 33, 36)

Petitioner is a state prisoner proceeding *pro se* whose petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 was dismissed on August 2, 2016. (ECF No. 31).

On August 24, 2016, the Court received Petitioner's motion for extension of time to file a notice of appeal accompanied by a notice of appeal. (ECF Nos. 33, 34). Federal Rule of Appellate Procedure 4(a)(1)(A) requires parties in a civil action to file a notice of appeal within 30 days of the entry of judgment, which is in the instant case was September 1, 2016. As Petitioner has filed a notice of appeal within the time period prescribed by Rule 4(a), the motion for extension of time to file a notice of appeal is moot.

On August 25, 2016, the Court received Petitioner's motion for extension of time to file a Rule 52(b) motion. (ECF No. 36). On August 30, 2016, the Court granted the motion. (ECF No. 38). However, the order was in error because pursuant to Rule 6(b)(2) of the Federal Rules of Civil Procedure, the Court "must not extend the time to act" under Rule 52(b).

Accordingly, IT IS HEREBY ORDERED that: 1. The August 30, 2016 order granting the motion for extension of time to file a Rule 52(b) motion is VACATED; and 2. Petitioner's motions for extension of time (ECF Nos. 33, 36) are DENIED. IT IS SO ORDERED. UNITED STATES MAGISTRATE JUDGE Dated: September 6, 2016