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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY R. TURNER,

Plaintiff,

No. CIV S-07-1362 LKK GGH P

vs.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

ORDER

On December 14, 2009, plaintiff filed a “notice to file belated appeal with good cause...”, which the court construes as a motion for an extension of time to file a notice of appeal.<sup>1</sup> Judgment was entered in this case on May 21, 2009. Pursuant to Fed. R. App. P. 4(a)(1)(A), the time for filing a notice of appeal in a civil case is “within 30 days after the judgment or order appealed from is entered.” Under Fed. R. App. P. 4(a)(5)(A):

The district court may extend the time for filing a notice of appeal if:

- (i) a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; and
- (ii) regardless of whether its motion is filed before or during the 30 days after the time prescribed by

<sup>1</sup> Although it appears that plaintiff has directed the motion to the Ninth Circuit Court of Appeals, it is pending in this court’s case docket. The undersigned addresses this motion to the extent that it is correctly construed to be directed to the district court.

1                   this Rule 4(a) expires, that party shows excusable  
2                   neglect or good cause.

3                   In this instance, plaintiff's motion for an extension of time to file a notice of  
4                   appeal, filed more than six months after entry of judgment, is itself untimely and the motion must  
5                   be denied on that ground.

6                   Accordingly, IT IS HEREBY ORDERED that plaintiff's "notice to file belated  
7                   appeal," construed as a motion for an extension of time to file a notice of appeal, filed on  
8                   December 14, 2009, is denied as untimely under Fed. R. App. P. 4(a)(5)(A).

9                   DATED: June 9, 2010.

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12                   LAWRENCE K. KARLTON  
13                   SENIOR JUDGE  
14                   UNITED STATES DISTRICT COURT