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

THOMAS JOHN HEILMAN,

Plaintiff,

No. CIV S-10-1120 DAD P

vs.

L. SANCHEZ, et al.,

Defendants.

ORDER

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On December 15, 2011, plaintiff, a state prisoner, filed a motion seeking a 30-day extension of time to file his notice of appeal. (Doc. No. 24.) Judgement was entered in this action on November 22, 2011. (Doc. No. 23.) Pursuant to Rule 4(a) of the Federal Rules of Appellate Procedure, the notice of appeal must be filed within 30 days after the judgment is entered.

In his motion, plaintiff contends that he did not receive the judgment until December 5, 2011, and that he was unable to file his notice of appeal because he is currently confined in administrative segregation, he did not have access to all his legal documents, he needs more time to evaluate “further evidence in support of his claims[,]” and he is proceeding without legal counsel. Plaintiff seeks an extension of time to January 20, 2012, in which to file his notice of appeal.

1 Rule 4(a)(5) of the Federal Rules of Appellate Procedure provides:

2 The district court may extend the time to file a notice of appeal if:

- 3 (i) a party so moves no later than 30 days after the  
4 time prescribed by this Rule 4(a) expires; and  
5 (ii) regardless of whether its motion is filed before  
6 or during the 30 days after the time prescribed by  
7 this Rule 4(a) expires, that party shows excusable  
8 neglect or good cause.

9 Here, plaintiff's motion for extension of time was filed before the time for filing  
10 his notice of appeal expired. In addition, the court finds that plaintiff has shown good cause for  
11 the requested extension. See Ingram v. Warden, Civil Action No. 10-4151 (NLH), 2011 WL  
12 318300 at \*3 (D. N.J. Jan. 24, 2011) (finding good cause for granting of an extension of time  
13 where plaintiff's upcoming institutional transfer was as an independent and uncontrollable  
14 intervening circumstance); Jones v. Walsh, No. 06 Civ. 225 (JGK), 2008 WL 486270, at \*1 (S.D.  
15 N.Y. March 4, 2008) (finding good cause for the granting of an extension of time where the  
16 prisoner was unable to meet with his law assistant and access the law library); Stephanski v.  
17 Superintendent of Upstate Correctional Facility, No. 02-CV-0562, 2007 WL 210399, at \*1 (W.D.  
18 N.Y. Jan. 25, 2007) (citing cases finding good cause for the granting of extensions of time due to  
19 prison transfer, limited access to prison law library and materials, and need for more time to  
20 research and prepare notice of appeal). Therefore, plaintiff's motion for an extension of time will  
21 be granted and plaintiff will be ordered to file his notice of appeal within fourteen days of the  
22 date of this order. See Rule 4(a)(5)(C) ("No extension under this Rule 4(a)(5) may exceed thirty  
23 days after the prescribed time or 14 days after the date when the order granting the motion is  
24 entered, whichever is later.").

25 In addition, on December 15, 2011, plaintiff filed a document styled, "Request  
26 For Information," in which plaintiff requests "the Case Name and Case Numbers of all current or  
former litigation against defendant L. Sanchez or Leovidalis Sanchez, Librarian at the California  
Medical Facility or while employed at other prison facilities and filed in the District Court

1 system of California.” (Doc. No. 25 at 1.) Plaintiff’s request will be denied. As noted above,  
2 judgement has been entered in this action. Plaintiff is advised that no court orders addressing  
3 discovery requests or any other requests from plaintiff will issue in this closed action.

4 On December 28, 2011, plaintiff filed a document styled, “Request/Motion For  
5 Leave Of Court To File An Appeal Of This Action To The United States Court Of Appeals,  
6 Ninth Circuit.” (Doc. No. 26.) That filing will be construed by the court as a duplicative motion  
7 for an extension of time by plaintiff to file his notice of appeal. Therefore, that duplicative  
8 motion will be denied as moot.

9 Accordingly, IT IS HEREBY ORDERED that:

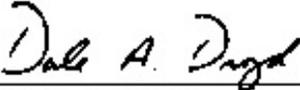
10 1. Plaintiff’s December 15, 2011 motion for an extension of time to file his notice  
11 of appeal (Doc. No. 24) is granted;

12 2. Plaintiff shall file his notice of appeal no later than fourteen days after the date  
13 of this order;

14 3. Plaintiff’s December 15, 2011 request for information (Doc. No. 25) is denied;  
15 and

16 4. Plaintiff’s December 28, 2011 motion for leave of court to file an appeal (Doc.  
17 No. 26) is denied as moot.

18 DATED: January 9, 2012.

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DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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