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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELDRED NICHOLSON,
Plaintiff,
v.
D. MEDINA,
Defendant.

No. 2:10-cv-1425-KJM-EFB

ORDER

This matter is before the court on plaintiff's Ex Parte Motion For 30-Day Extension To File A Notice Of Appeal. (ECF 153.) Federal Rule of Appellate Procedure 4(a)(5) authorizes this court to extend time for up to 30 days if plaintiff (1) moves no later than 30 days after the entry of judgment and (2) demonstrates good cause or excusable neglect. The court grants the motion because plaintiff has satisfied both conditions.

First, the instant motion was timely filed. Judgment after the jury verdict was entered on December 11, 2013. (ECF 146.) Plaintiff filed the instant motion fewer than 30 days later on January 6, 2014. (ECF 153.) Second, plaintiff has demonstrated good cause. Plaintiff is incarcerated at Corcoran State Prison; on December 23, 2013, he contacted his counsel for the first time after the trial and explained that he had only just returned to that prison and was just given his first opportunity to call counsel. (ECF 153 at 1.) Counsel informed plaintiff of his appeal options and plaintiff asked for time to consider them. (*Id.*) Plaintiff stated he would call

1 counsel the following week if he was permitted to call. (*Id.*) Counsel has sent follow-up letters
2 but has not heard from plaintiff since. (*Id.*) Because of plaintiff's delayed return to prison and
3 his counsel's difficulty in contacting him, the court finds good cause exists to grant a 30-day
4 extension.

5 Plaintiff has until February 10, 2014 to file his notice of appeal.

6 IT IS SO ORDERED.

7 DATE: January 8, 2014.

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11 UNITED STATES DISTRICT JUDGE
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