

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MIGUEL ENRIQUE DIAZ,

 Plaintiff,

 v.

R. FOX, et al.,

 Defendants.

No. 2:14-cv-2705 JAM CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On May 29, 2018, the court received documents from plaintiff that indicate that on December 6, 2017, a notice of appeal was returned to him because there was no indication of what he was appealing. (ECF No. 84 at 5.) Plaintiff has also provided a copy of the notice of appeal (id. at 3) and it appears to be the same notice of appeal he sent to defendants’ counsel (ECF No. 81-1 at 5). Given the context, it appears that plaintiff intended to appeal the order requiring him to submit to a deposition (ECF No. 74).

Although the notice of appeal clearly fails to meet the requirements of Rule 3 of the Federal Rules of Appellate Procedure, the Rule also requires that the district clerk forward a copy of the notice of appeal to the clerk of the court of appeal. Fed. R. App. P. 3(c)(1), (d)(1). The Clerk of the Court will therefore be directed to forward the notice of appeal to the Ninth Circuit Court of Appeal and enter the notice of appeal as filed on December 5, 2017, the date it was

1 originally received by this court.

2 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to file
3 plaintiff's notice of appeal (ECF No. 84 at 3) and forward a copy of the notice and this order to
4 the Ninth Circuit Court of Appeal. The docket should reflect that the notice of appeal was filed
5 December 5, 2017.

6 Dated: June 18, 2018

7 
8 _____
9 CAROLYN K. DELANEY
10 UNITED STATES MAGISTRATE JUDGE

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
13:diaz2705.noa