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E-FILED - 5/7/09

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

DAVID LITMON, JR.,

No. C 03-2054 RMW (PR)

Plaintiff,

**ORDER EXTENDING TIME TO
FILE AN APPEAL**

v.

SANTA CLARA COUNTY, et al.,

Defendants.

(Docket No. 99)

Plaintiff filed this *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983. The case was dismissed and judgment entered against plaintiff on March 31, 2009. On April 24, 2009, plaintiff filed a motion requesting an extension of time to file an appeal.

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

(A) The district court may extend the time to file 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 Rule 4(a) expires, that party shows excusable neglect or good cause.

(B) A motion filed before the expiration of the time prescribed in Rule (4)(a)(1) or (3) may be ex parte unless the court requires otherwise. If the motion is filed after the expiration of the prescribed time, notice must be given to the other parties in accordance with local rules.

(C) No extension under this Rule 4(a)(5) may exceed 30 days after the prescribed time or ten days after the date when the order granting the motion is entered, whichever is later.

1 Fed. R. App. P. 4(a)(5)(A)-(C).

2 Plaintiff contends that he did not receive a copy of the court's orders dismissing his
3 case and entering judgment until April 21, 2009, thus making it difficult for him to study the
4 orders, decide the viability of the appeal, and file a notice of appeal within the time
5 prescribed by the rules. The court finds good cause and GRANTS plaintiff's motion (docket
6 no. 99). The time to file a notice of appeal is extended to **June 1, 2009**, which is the
7 maximum extension the court can grant under the rule.

8 IT IS SO ORDERED.

9 DATED: 5/6/09


RONALD M. WHYTE
United States District Judge

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