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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JERRY MARTIN MIRANDA,

Plaintiff,

v.

R. K. SWIFT, et al.,

Defendants.

Case No. 17-04000 BLF (PR)

**ORDER GRANTING MOTION FOR
EXTENSION TO FILE APPEAL**

(Docket No. 55)

Plaintiff, a California state prisoner, filed a *pro se* civil rights complaint under 42 U.S.C. § 1983. On November 2, 2020, the Court granted Defendants' motion to dismiss this action and entered judgment the same day. Dkt. Nos. 53, 54. On December 7, 2020, Plaintiff filed a motion for an extension of time to file an appeal because of increased prison restrictions due to COVID-19; the motion was signed and dated November 30, 2020, and mailed the same day. Dkt. No. 55-1 at 2; Dkt. No. 55-2.

An appeal of right may be taken only by filing a valid notice of appeal in the district court within the time allowed by the Federal Rules of Appellate Procedure. Fed. R. App. P. 3(a)(1). Rule 4(a) of the Federal Rules of Appellate Procedure requires that a notice of appeal "be filed with the district clerk within 30 days after the entry of the judgment or order appealed from." Fed. R. App. P. 4(a)(1)(A). Rule 4(a)(5) allows a motion for an

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extension of time if the party requests it within thirty days of the expiration of the time to file the notice and shows excusable neglect or good cause. Fed. R. App. P. 4(a)(5). The extension must be for no later than thirty days after the original deadline, or fourteen days after the entry of the order granting the motion, whichever is later. *Id.*


Since judgment was entered on November 2, 2020, Plaintiff had until December 2, 2020, to file a timely notice of appeal. Fed. R. App. P. 4(a)(1). Accordingly, Plaintiff's motion for extension of time is timely under the mailbox rule. *Id.*; Dkt. No. 55-2. Having also shown good cause, Plaintiff's motion is **GRANTED**.

Plaintiff must file his notice of appeal **no later than either January 1, 2021**, (30 days after the original deadline of December 2, 2020), **or fourteen days after the date this order is filed, whichever is later**.

This order terminates Docket No. 5.

IT IS SO ORDERED.

Dated: December 10, 2020


BETH LABSON FREEMAN
United States District Judge