

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge William J. Martínez**

Civil Action No. 13-cv-0069-WJM-KMT

LYNN EUGENE SCOTT,

Plaintiff,

v.

MARY CARLSON,

Defendant.

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**ORDER GRANTING PLAINTIFF'S MOTION TO REOPEN TIME TO FILE APPEAL**

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Plaintiff Lynn Eugene Scott brought this case *pro se* against Defendant Mary Carlson, in her individual capacity, claiming violations of his Fifth, Eighth, and Fourteenth Amendment rights under 42 U.S.C. § 1983. (ECF No. 1.) On February 7, 2014, the Court granted Defendant's Motion to Dismiss and entered judgment in favor of Defendant. (ECF Nos. 28 & 29.) The copy of the Judgment that was mailed to Plaintiff was returned undeliverable. (ECF No. 30.)

On April 28, 2014, Plaintiff filed the instant Motion to Reopen Time to File Appeal ("Motion"). (ECF No. 31.) Pursuant to Federal Rule of Appellate Procedure 4(a)(6), Plaintiff asks the Court to reopen the time for him to file an appeal because he did not receive notice of the entry of judgment in this case. (*Id.* at 2.) Plaintiff contemporaneously filed a Notice of Appeal. (ECF No. 33.) The Tenth Circuit abated his case pending ruling on the instant Motion. (ECF No. 38.)

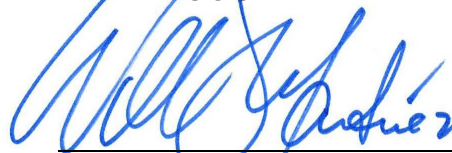
The day after the Motion was filed, the Court referred the Motion to Magistrate Judge Kathleen M. Tafoya. (ECF No. 35.) On June 13, 2014, Judge Tafoya found that the requirements of Rule 4(a)(6) had been satisfied, and granted the Motion. (ECF No. 51.) On July 8, 2014, the Tenth Circuit issued an order stating: “Although the magistrate judge has issued an order granting the motion [to reopen the time for appeal], a magistrate judge is not empowered to definitively rule on a Rule 4(a)(6) motion to reopen.” (ECF No. 55.) The Tenth Circuit partially remanded the case to this Court “for a final ruling on the pending Rule 4(a)(6) motion.” (*Id.*)

The Court has reviewed the Magistrate Judge’s analysis and finds that it was thorough and sound. The Court therefore adopts the Magistrate Judge’s reasoning, and finds that the requirements of Rule 4(a)(6) are met.

Accordingly, the Court hereby ORDERS that Plaintiff’s Motion to Reopen Time to File Appeal (ECF No. 31) is GRANTED.

Dated this 5<sup>th</sup> day of August, 2014.

BY THE COURT:



William J. Martinez  
United States District Judge