

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-03458-LTB

TERRY BETTS,

Plaintiff,

v.

STATE OF COLORADO, and
BRANDON SHAFFER, In His Official Capacity as Chair of the Colorado State Board of
Parole, and In His Individual Capacity,

Defendants.

ORDER RE-OPENING THE TIME TO FILE AN APPEAL

On February 5, 2015, the Court entered an Order and Judgment dismissing this action (ECF Nos. 13, 14). Mr. Betts filed a Notice of Appeal on May 29, 2015 (ECF No. 20). Plaintiff indicated in his Notice of Appeal (ECF No. 20) that he did not receive notice of the Judgment until May 18, 2015.

On July 17, 2015, the United States Court of Appeals for the Tenth Circuit issued an Order of partial remand, (ECF No. 29), directing this Court to determine whether the time to appeal should be reopened under Fed. R. App. P. 4(a)(6).

Pursuant Fed. R. App. P. 4(a)(6), the district court may reopen the time to file an appeal for a period of 14 days after the date when the order to reopen is entered, if the following conditions are satisfied: (1) the moving party did not receive notice of the entry of judgment or order sought to be appealed within 21 days after entry; (2) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party received notice of entry of the judgment, whichever is earlier; and, (3) the

court finds that no party would be prejudiced. See *a/so* 28 U.S.C. § 2107(c) (allowing the district court to reopen the time to appeal under the same circumstances as set out in Rule 4(a)(6)).

Plaintiff represents that he did not receive notice of the entry of judgment until May 18, 2015, more than 21 days after entry of the Judgment. Plaintiff thereafter filed his Notice of Appeal within 14 days after he received notice of the entry of the judgment. And, there is nothing in the record to suggest that the Defendants will be prejudiced by reopening the time to file an appeal. Accordingly, it is

ORDERED that the time to file an appeal is **reopened for 14 days from the date of this Order**, pursuant to Fed. R. App. P. 4(a)(6). It is

FURTHER ORDERED that the Clerk's office shall transmit a copy of this Order to the Tenth Circuit Court of Appeals.

Dated July 21, 2015, at Denver Colorado.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court