

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DAMON B. PARKS, #B01868,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 3:18-cv-01300-SMY
)	
JOHN COE and RANDALL BROOKS,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

YANDLE, District Judge:

Plaintiff filed a Notice of Appeal on October 2, 2020 regarding the August 26, 2020 Order and Judgment granting Defendants’ motions for summary judgment and dismissing this case. (Doc. 87). A Declaration from another inmate acknowledging that the appeal was late and explaining the reason for the untimely filing was attached to the Notice of Appeal. (*Id.*). This matter has been remanded to this Court to determine whether to extend the time to appeal. (Doc. 102).

Federal Rule of Appellate Procedure 4(a)(5)(A) authorizes a court to extend the time to file a notice of appeal upon a showing of excusable neglect or good cause:

The relevant question is one of fault, as “[t]he excusable neglect standard applies in situations in which there is fault; in such situations, the need for extension is usually occasioned by something within the control of the movant.” [citations omitted] On the other hand, the good cause standard “applies in situations in which there is no fault—excusable or otherwise.”

Sherman v. Quinn, 668 F.3d 421, 425 (7th Cir. 2012) (quoting from the advisory committee notes to the 2002 amendments to Rule 4).

According to the afore-mentioned Declaration, Plaintiff’s failure to timely file his Notice was not the result of neglect on his part, but was due to his inability to access his legal documents

during a lockdown due to COVID-19. Moreover, his extension request was timely. As such, the Court finds good cause for granting the same. Accordingly, the motion for extension of time to appeal (Doc. 87) is **GRANTED** in accordance with Federal Rule of Appellate Procedure 4(a)(5)(C); the Notice of Appeal filed on October 2, 2020 is deemed timely.

IT IS SO ORDERED.

DATED: August 10, 2021

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge