

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RICHARD HOWARD THOMSON,

Petitioner,

v.

Case No. 2:06-CV-12619

JAN E. TROMBLEY,

Respondent.

**OPINION AND ORDER DENYING AS MOOT PETITIONER'S
REQUEST TO EXTEND TIME TO FILE AN APPEAL**

On September 30, 2008, the court issued an order adopting the magistrate judge's report and recommendation ("R&R") and denying Petitioner Richard Howard Thomson's petition for a writ of habeas corpus. On April 28, 2009, Petitioner filed an untimely "Motion to Extend Time to Appeal," which the court denied on July 6, 2009. Thereafter, Petitioner filed a document, which Petitioner's attorney docketed as a "Request to Extend Time to File an Appeal." The substance of the motion, however, is some sort of attempt to file an appeal of the court's July 6, 2009 order.¹ However, Petitioner then filed what appears to be the identical document on August 3, 2009, this time docketing it as a "Notice of Appeal." The Sixth Circuit has apparently opted to decipher at least one of these documents as a valid notice of appeal, because it subsequently ordered this court to issue a ruling on a certificate of appealability. The

¹The court directed Respondent to file a response to the document, but Respondent instead filed a response to the April 28, 2009 motion to extend, which the court already denied. The court will therefore disregard Respondent's response.

court will thus interpret these two filings consistent with the titles which Petitioner's attorney gave them when he docketed them: as a request for extension of time and as a notice of appeal. The August 3, 2009 "Notice of Appeal" was filed within the thirty days allotted for appeals in civil cases. See Fed. R. App. P. 4(a)(1)(A). Thus, there is no need to extend the time for filing a notice of appeal.

IT IS ORDERED that Petitioner's "Request to Extend Time to File an Appeal" is DENIED AS MOOT.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 16, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 16, 2009, by electronic and/or ordinary mail.

S/Lisa G. Wagner
Case Manager and Deputy Clerk
(313) 234-5522