## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

CASE NO. 2:13-10080

HONORABLE ARTHUR J. TARNOW UNITED STATES DISTRICT JUDGE

COREY DOTSON,

Petitioner,

v.

DUNCAN MACLAREN,

Respondent.

## OPINION AND ORDER DENYING AS MOOT PETITIONER'S MOTION FOR AN EXTENSION OF TIME TO FILE A NOTICE OF APPEAL

On September 22, 2014, this Court denied petitioner's habeas application

that had been brought pursuant to 28 U.S.C. § 2254, but granted petitioner a

certificate of appealability and leave to appeal in forma pauperis. Dotson v.

MacLaren, No. 2:13-CV-10080; 2014 WL 4705115 (E.D. Mich. September 22,

2014). On October 12, 2014, petitioner signed and dated a notice of appeal,

which was filed with this Court on October 21, 2014. [Dkt. # 17].<sup>1</sup> On November

20, 2014, petitioner filed a motion for extension of time to file a notice of appeal.

For the reasons that follow, the motion for an extension of time to file an appeal is

DENIED AS MOOT.

<sup>&</sup>lt;sup>1</sup> Under the "prison mailbox rule," petitioner's notice of appeal was filed on October 12, 2014, the date that it was signed and dated by petitioner. *Houston v. Lack,* 487 U.S. 266, 270-71 (1988).

## Dotson v. MacLaren, 2:13-CV-10080

Fed. R. App. P. 4 (a)(1) states that a notice of appeal must be filed within thirty days of the entry of the judgment or order from which the appeal is taken. This time limit is mandatory and jurisdictional. *Browder v. Director, Department of Corrections of Illinois*, 434 U.S. 257, 264 (1978). The failure of an appellant to timely file a notice of appeal deprives an appellate court of jurisdiction. *Rhoden v. Campbell*, 153 F.3d 773, 774 (6<sup>th</sup> Cir. 1998).

This Court issued its judgment on September 22, 2014. Petitioner had until October 22, 2014 to file a notice of appeal. Petitioner filed his notice of appeal on October 12, 2014, within the 30 days for filing a notice of appeal. In light of the fact that petitioner's notice of appeal was timely filed, his motion for an extension of time to file an appeal is now moot. *See Steele v. Supreme Court of U.S.*, 255 Fed. App'x. 534 (C.A.D.C. 2007).

IT IS ORDERED that petitioner's Motion for an Extension of Time to File a Notice of Appeal [Dkt. # 17] is **DENIED AS MOOT** on the ground that his Notice of Appeal was timely filed.

> <u>S/Arthur J. Tarnow</u> Arthur J. Tarnow Senior United States District Judge

Dated: February 12, 2015

I hereby certify that a copy of the foregoing document was served upon parties/counsel of record on February 12, 2015, by electronic and/or ordinary mail.

<u>S/Catherine A. Pickles</u> Judicial Assistant