

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BARINE DEEZIA,)
)
 Plaintiff,)
)
 v.)
)
 GREGORY GRAHAM, Lincoln)
 Police Department Officer, AARON)
 PETH, Lincoln Police Department)
 Officer, TREY WAYNE, Lincoln)
 Police Department Officer,)
 ANDREW WINKLER, Lincoln)
 Police Department Officer, MARK)
 MOORE, Lincoln Police Department)
 Officer, PATRICK MURPHY,)
 Lincoln Police Department Officer,)
 and JASON DRAGER, Lincoln)
 Police Department Officer,)
)
 Defendants.)
)

4:17CV3033

**MEMORANDUM
AND ORDER**

Counsel for Defendants has filed a Motion for Extension of Time to File Defendants’ Notice of Appeal (Filing No. 98). Plaintiff does not object to Defendants’ motion. (Filing No. 99).

On November 29, 2018, Defendants filed their Notice of Appeal (Filing No. 93) from this court’s October 29, 2018, Memorandum and Order (Filing No. 91) denying in part Defendants’ Motions for Summary Judgment based on qualified immunity. Defendants’ counsel represents that she received a letter from the Clerk of the Eighth Circuit Court of Appeals on December 4, 2018, advising her that her appeal was untimely.

Federal Rule of Appellate Procedure 4(a)(5)(A) allows the district court to extend the 30-day deadline to file a notice of appeal if “(i) a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; and (ii) regardless of whether its motion is filed before or during the 30 days after the time prescribed by this Rule 4(a) expires, that party shows excusable neglect or good cause.”

Defendants’ counsel filed her Motion for Extension of Time to File Defendants’ Notice of Appeal within the time frame allowed by Fed. R. App. P. 4 and has shown excusable neglect or good cause through a supporting affidavit stating that counsel miscalculated the appeal deadline by one day and describing several competing deadlines in counsel’s heavy caseload. Accordingly,

IT IS ORDERED:

1. Defendants’ unopposed Motion for Extension of Time to File Defendants’ Notice of Appeal (Filing No. 98) is granted;
2. The deadline for filing Defendants’ Notice of Appeal is extended to December 14, 2018.

DATED this 6th day of December, 2018.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge