IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

STEVEN R. BLAIR, Plaintiff, v. NEBRASKA DEPARTMENT OF CORRECTIONAL SERVICES, TIM PAVEL, TYLER ENDICOTT, DANIEL WENDT, ROLAND LIEHUS, CHAD PIERCE, TRACE MALOUSEK, and MARLIN LEYBOLD, Defendants.	)	8:07CV307 **MEMORANDUM AND ORDER**

This matter is before the court on Plaintiff's Motion for Leave to Appeal In Forma Pauperis. (Filing No. 106.) On June 22, 2010, the court dismissed Plaintiff's claims and entered judgment against him. (Filing Nos. 103 and 104.) On July 23, 2010, Plaintiff filed an untimely Notice of Appeal of the court's Judgment. (Filing No. 105.)

Federal Rule of Appellate Procedure 4(a)(1) requires that the notice of appeal in a civil case be filed within thirty days after judgment is entered. "A timely notice of appeal is both mandatory and jurisdictional." *Burgs v. Johnson County, Iowa*, 79 F.3d 701, 702 (8th Cir 1996). Morever, an untimely notice of appeal cannot serve as a motion for extension of time to file appeal. *Id*. However, the district court may extend the time to file a notice of appeal if a party moves for an extension of time and shows excusable neglect or good cause. Fed. R. App. P. 4(a)(5)(A)(ii).

Plaintiff did not move to extend the time to file a notice of appeal in this matter. (*See* Docket Sheet.) However, on the court's own motion, Plaintiff shall have until

August 20, 2010, to file an affidavit to show excusable neglect or good cause for failing to file a timely notice of appeal. If Plaintiff fails to submit such an affidavit, Plaintiff's appeal will not be processed.

IT IS THEREFORE ORDERED that:

1. Plaintiff shall have until August 20, 2010, to submit an affidavit to show excusable neglect or good cause for failing to file a timely notice of appeal. If Plaintiff fails to submit such an affidavit by August 20, 2010, Plaintiff's appeal will not be processed.

2. The Clerk of the court is directed to set a pro se case management deadline in this case using the following text: Check for affidavit on August 20, 2010.

DATED this 2nd day of August, 2010.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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