

NOT FOR PUBLICATION

(Doc No. 54)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

_____	:	
OREADER CALLAWAY, JR.	:	
	:	
Plaintiff,	:	Case No. 12-05477 (RBK)(KMW)
	:	
v.	:	MEMORANDUM ORDER
	:	
NEW JERSEY STATE POLICE, ET. AL	:	
	:	
Defendants.	:	
_____	:	

KUGLER, United States District Judge:

This matter comes before the Court on remand from the Third Circuit Court of Appeals (Doc. No. 54) for the limited purpose of considering whether to extend the time for Plaintiff to appeal this Court’s Order dated March 17, 2015.

Federal Rule of Appellate Procedure 4(a)(5)(ii) allows a district court to extend the time to file a notice of appeal beyond the typical thirty days when a party shows “excusable neglect or good cause.” The “excusable neglect” and “good cause” standards have “different domains.” See Joseph v. Hess Oil Virgin Islands Corp., 651 F.3d 348, 356 (3d Cir. 2011) (citation omitted)). The former applies when the delay results from the fault of the party, while the latter is applicable when “the need for an extension is . . . occasioned by something that is not within the control of the movant.” Id. (citation omitted).

The Court finds that Plaintiff’s letter dated May 15, 2015 (Doc. No. 52.) and the circumstances surrounding his untimely appeal show good cause for an extension. Plaintiff, proceeding pro se, filed his Notice of Appeal on April 20, 2015, three days past the deadline to

appeal the Court's decision. See Fed. R. App. P. 4(a)(1) (providing that the notice of appeal must be filed thirty days "after entry of the judgment or order appealed from"). However, Plaintiff did not receive this Court's Order and Opinion until March 31, 2015, because of an address change. Although Plaintiff sent the Court his change-of-address- notification on March 16, 2015, the Court did not receive that notification until after it had already sent the Court's judgment to Plaintiff's old address. On March 24, the Court resent the Court's Order to Plaintiff's new address, which he received on March 31, 2015. Given these circumstances, it appears Plaintiff's untimely Notice of Appeal was the result of circumstances largely out of his control. Therefore, Plaintiff's request for an extension of time to file an appeal is **GRANTED**.

Dated: 1/5/2015 _____

s/Robert B. Kugler
ROBERT B. KUGLER
United States District Judge