

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

KARL HAGBERG, for himself and as
parent of E.H., A.H., and C.H., and ZIA
SHAIKH, for himself and as parent of M.S.,
S.S., and H.S.,

Plaintiffs,

v.

STATE OF NEW JERSEY, CHRIS
CHRISTIE, in his official capacity,
CHRISTOPHER PORINO, in his official
capacity, MICHELLE M. SMITH, in her
official capacity, STUART RABNER, in his
official capacity, and JOHN DOES 1-10,

Defendants.

Civil Action No. 3:16-cv-1189-BRM-LHG

MEMORANDUM ORDER

THIS MATTER is opened to the Court by Plaintiff Karl Hagberg’s Motion to File a Late Notice of Appeal. (ECF No. 34.) For the reasons set forth below, Hagberg’s Motion is **DENIED**.

On September 26, 2017, the Court granted defendants’ Motion to Dismiss (ECF No. 28) and co-plaintiff Zia Shaikh timely filed a Notice of Appeal on October 17, 2017 (ECF No. 29). *See* Fed. R. App. P. 4(a)(1)(a). Pursuant to Federal Rule of Appellate Procedure 4, Hagberg had fourteen days from that date, until October 31, 2017, to file a notice of appeal. *See* Fed. R. App. P. 4(a)(3). Nearly two months later, Hagberg filed this motion to file a late notice of appeal, stating only that, in October 2017, he “was so frustrated with his attempts in state and federal court to vindicate his parental rights that he initially declined to appeal” and “has since decided that he would like to join Mr. Shaikh in the Appeal to the Third Circuit,” which he argues would not delay the appeal or prejudice defendants. (ECF No. 34 at 1-2.)

The Rule 4 permits the District Court to extend the time to file a notice of appeal in two circumstances: (i) when “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.” Fed. R. App. P. 4(a)(5)(A). Because more than thirty days have passed since Hagberg’s notice would have been due, he is required to show good cause or excusable neglect for the late filing. Fed. R. App. P. 4(a)(5)(A)(ii). He has shown neither. Hagberg’s frustration with the judicial system decision does not justify his delay.

Accordingly,

IT IS on this 3rd day of January 2018,

ORDERED that Hagberg’s Motion to File a Late Notice of Appeal (ECF No. 34) is **DENIED**.

/s/ *Brian R. Martinotti*
HON. BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE