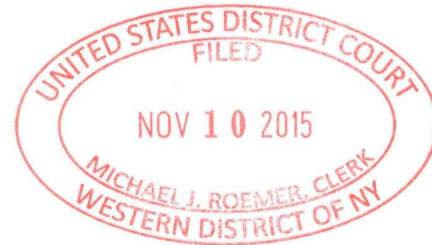


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



SHAWN GREEN, 97A0801,

Plaintiff,

v.

BRIAN FISCHER, et al.,

Defendants.

DECISION AND ORDER

11-cv-06063 EAW

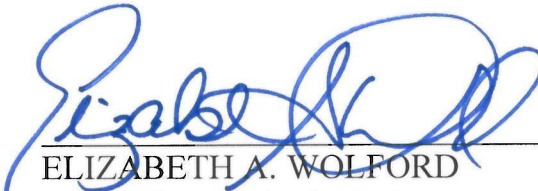
On October 15, 2015, Plaintiff Shawn Green filed a letter request (Dkt. 62) for a copy of *Neroni v. Cocomma*, No. 3:13-CV-1340 GLS/DEP, 2014 WL 2532482 (N.D.N.Y. June 5, 2014), which was cited in this Court's September 18, 2015 Text Order (Dkt. 61). Plaintiff's request is granted and a copy of the decision will be provided to him.

Plaintiff has also filed a motion for leave to file a late notice of appeal with respect to this Court's August 13, 2015 Text Order (Dkt. 59) denying his motion to disqualify the New York State Attorney General's Office from representing Defendants in this matter. (Dkt. 63). "In general, a litigant must file a notice of appeal within thirty days of entry of judgment. The district court may grant an extension of the filing deadline . . . so long as the movant shows excusable neglect or good cause." *Bolarinwa v. Williams*, 593 F.3d 226, 230 (2d Cir. 2010) (citations and quotation omitted). Here, Plaintiff has failed to meet this standard. Plaintiff states that he received the Court's order on August 17, 2015, and left his prison facility on September 17, 2015, for "a medical trip." (Dkt. 63). Plaintiff has not proffered any reason why he was unable to file a notice of appeal in the month between his receipt of the Court's order and his departure from his prison facility,

and has thus not shown good cause or excusable neglect. *See Marshall v. United States*, 263 F. Supp. 2d 712, 713 (S.D.N.Y. 2003) (prisoner who does not offer valid reason for failing to file notice of appeal has not shown good cause or excusable neglect). Plaintiff's motion for leave to file a late notice of appeal (Dkt. 63) is therefore denied.

Defendants' motion for summary judgment (Dkt. 47) and Plaintiff's cross-motion for partial summary judgment (Dkt. 51) remain pending. To expedite the resolution of these pending motions, the parties are encouraged to consider the provisions of 29 U.S.C. § 636(c) governing consent to disposition of this proceeding by a Magistrate Judge. The form for use under those provisions is attached and is also available at <http://www.uscourts.gov/forms/civil-forms/notice-consent-and-reference-civil-action-magistrate-judge>.

SO ORDERED.



ELIZABETH A. WOLFORD
United States District Judge

Dated: November 10, 2015
Rochester, New York

UNITED STATES DISTRICT COURT
for the

Plaintiff
v.
Defendant
Civil Action No.

NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE

Notice of a magistrate judge's availability. A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

Consent to a magistrate judge's authority. The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

Table with 3 columns: Parties' printed names, Signatures of parties or attorneys, Dates. Includes four rows of blank lines for entry.

Reference Order

IT IS ORDERED: This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date:
District Judge's signature
Printed name and title

Note: Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.