

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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|-------------------------|---|---------------------------|
| WILLIAM S. PALMER, JR., |) | Case No. 1:19-cv-00102 |
| |) | |
| Petitioner, |) | Judge J. Philip Calabrese |
| |) | |
| v. |) | |
| |) | |
| WARDEN LYNEAL |) | |
| WAINWRIGHT, |) | |
| |) | |
| Respondent. |) | |
| |) | |

OPINION AND ORDER

On August 19, 2022, the Court denied Petitioner William S. Palmer, Jr.’s petition for a writ of habeas corpus, making the deadline for him to file a notice of appeal September 19, 2022. By letter dated September 22, 2022, Petitioner attests that he timely filed a notice of appeal, though the docket does not reflect that fact and the Clerk’s office did not receive a notice of appeal for docketing. The Court construes this letter as a motion for an extension of time in which to file a notice of appeal.

A district court may extend the time to file a notice of appeal if “a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires.” Fed. R. App. P. 4(a)(5)(A)(i). Under this equitable exception to the mandatory and jurisdictional time for filing an appeal, the Court finds that Petitioner submitted his request for an extension to file a notice of appeal (through his letter of September 22, 2022) within 30 days after the expiration of the deadline for him to file a notice of appeal. Additionally, the Court finds that Petitioner has shown good cause for an extension of the deadline to appeal—namely, the loss in the mail of his notice of

appeal. Further, the Court notes that Petitioner previously acted diligently to preserve his appellate rights, both by moving under Rule 60 (*see* ECF No. 18) and by appealing while the Court considered that motion (*see* ECF No. 20). Based on this past diligence and the timeliness of Petitioner's letter, the Court finds that Petitioner acted diligently to preserve his appellate rights.

For the foregoing reasons, the Court **EXTENDS** the deadline to appeal to October 18, 2022.

SO ORDERED.

Dated: October 4, 2022

A handwritten signature in black ink, appearing to read 'J. Philip Calabrese', written in a cursive style.

J. Philip Calabrese
United States District Judge
Northern District of Ohio