

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

MARIO WILLIAMS,)	
)	
Plaintiff,)	
)	
v.)	No. CIV 13-015-RAW-SPS
)	
TIM WILKINSON, et al.,)	
)	
Defendants.)	

OPINION AND ORDER

This matter is before the court on Plaintiff's motion for extension of time to file an appeal (Dkt. 97). On September 29, 2015, this action was dismissed in its entirety (Dkt. 89), and the amended judgment was entered on September 30, 2015 (Dkt. 91). Pursuant to Fed. R. App. P. 4(a)(1)(A), Plaintiff had thirty days from the latter date to file his notice of appeal with the district court.

On November 5, 2015, Plaintiff advised the court that he had not received these documents, so they were remailed to him on that date. He alleges he received the documents and submitted his notice of appeal on November 9, 2015 (Dkt. 97 at 1). Plaintiff's untimely notice of appeal was filed on November 12, 2015 (Dkt. 92).

On November 30, 2015, Plaintiff filed a motion for extension of time to file his appeal (Dkt. 97). On December 30, 2015, the court directed Plaintiff to document his claim by providing the court with a copy of his facility mail log for the period in question (Dkt. 98). Plaintiff's response to the order includes a copy of his Legal and Privileged Mail History indicating he received mail from this court on November 1, 2015, and November 9, 2015

(Dkt. 98 at 3-4). He asserts the November 1, 2015, mail was a copy of a minute order entered on September 28, 2015 (Dkt. 99 at 5), and his mail on November 9, 2015, was the amended judgment. Therefore, Plaintiff received the amended judgment after the deadline for filing his notice of appeal under Fed. R. App. P. 4(a)(1)(1) (Dkt. 99 at 4).

The district court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:

(A) the court finds that the moving party did not receive notice under Federal Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed within 21 days after entry;

(B) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under Federal Rule of Civil Procedure 77(d) of the entry, whichever is earlier; and

(C) the court finds that no party would be prejudiced.

Fed. R. App. P. 4(a)(6).

The court finds the prerequisite conditions are satisfied. Plaintiff did not receive the amended judgment within 21 days, the present motion was filed within 180 days after the final order was entered, and the respondent has filed no objection. Pursuant to Rule 4(a)(6), the court may only reopen the time to file an appeal for a period of 14 days after the date of entry of this order.

ACCORDINGLY, Plaintiff's motion to reopen time to file an appeal (Dkt. 97) is **GRANTED**. Petitioner may file a notice of appeal within fourteen (14) days after the entry of this order.

IT IS SO ORDERED this 17th day of February 2016.

Dated this 17th day of February, 2016.

A handwritten signature in cursive script, reading "Ronald A. White", written in black ink over a horizontal line.

Ronald A. White
United States District Judge
Eastern District of Oklahoma