

United States District Court
Southern District of Texas

ENTERED

November 09, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ESEQUIEL OCHOA,	§
TDCJ #1328841,	§
	§
Petitioner,	§
	§
v.	§
	§
LORIE DAVIS, Director,	§
Texas Department of Criminal	§
Justice - Correctional	§
Institutions Division,	§
	§
Respondent.	§

CIVIL ACTION NO. H-16-1081

ORDER

On October 19, 2016, the court granted the respondent's motion for summary judgment and dismissed the federal habeas corpus petition filed by state inmate Esequiel Ochoa as barred by the governing one-year statute of limitations. Ochoa has now filed "Petitioner's First Motion for Extension of Time to File Properly According to Rule of Federal Civil Procedures [sic] Rule 59(e)" (Docket Entry No. 44) so that he can file objections to the dismissal order. The motion is granted in part for the reasons explained briefly below.

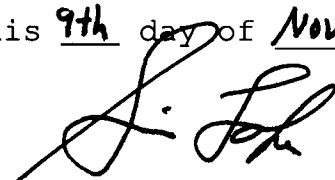
A motion under Rule 59(e) must be filed "no later than 28 days after the entry of the judgment." FED. R. CIV. P. 59(e). The Federal Rules of Civil Procedure expressly prohibit extensions of time to act under Rule 59(e). See FED. R. CIV. P. 6(b)(2) ("A court

must not extend the time to act under . . . Rule 59(b), (d), and (e)"). This means that Ochoa, as a pro se litigant, must deliver his objections to prison authorities for mailing within the 28-day period applicable to Rule 59(e). See, e.g., Sonnier v. Johnson, 161 F.3d 941, 943 n.1 (5th Cir. 1998) (observing that a pro se prisoner's Rule 59(e) motion was timely filed when delivered to prison authorities). Accordingly, the court may grant only a brief extension of time to file objections under Rule 59(e) in this case.

It is **ORDERED** that Ochoa's motion for an extension of time (Docket Entry No. 44) is **GRANTED** in part. Ochoa must file any objections under Rule 59(e) by delivering them to prison officials for mailing no later than November 16, 2016. Objections filed after that date will be considered under Rule 60(b) of the Federal Rules of Civil Procedure.

The Clerk will provide a copy of this Order to the parties.

SIGNED at Houston, Texas, on this 9th day of Nov., 2016.



SIM LAKE
UNITED STATES DISTRICT JUDGE