



The record reflects that the District Court signed its final judgment in this case on September 4, 2019 [#91]. Plaintiff's motion for extension of time to appeal was erroneously filed with the Fifth Circuit on September 18, 2019 [#92-1], and the Fifth Circuit transmitted it to this Court. Accordingly, the motion was timely filed under Rule 4(a)(5)(i) before the expiration of the 30-day deadline for filing a notice of appeal, and Plaintiff therefore need only show good cause for the requested extension, as opposed to excusable neglect. *Cowart*, 1999 WL 683819, at \*1. Plaintiff's stated reason for requesting an extension of time is the fact that is currently undergoing mental health treatment in prison and needs more time to either find an attorney or to develop his appeal. The Court finds good cause for the motion and will grant Plaintiff 45 additional days to file his notice of appeal with this Court. Plaintiff's original notice of appeal was due October 11, 2019. Plaintiff's new notice of appeal will be due 45 days thereafter or November 25, 2019.

## **II. Appointment of Counsel**

The Court will deny the request for the appointment of appellate counsel. Exceptional circumstances are necessary to justify the appointment of counsel in a civil rights action. *See Sierra Club v. Clifford*, 257 F.3d 444, 446 (5th Cir. 2001); *Ulmer v. Chancellor*, 691 F.2d 209, 212 (5th Cir.1982). Plaintiff has not shown that such circumstances exist, and the Court declines to appoint Plaintiff appellate counsel. *See Bowen v. Quarterman*, 339 Fed. App'x 479, 482 (5th Cir. 2009).

**IT IS THEREFORE ORDERED** that Plaintiff's Motion for Appeal and Request for a [sic] Appeal Attorney and a [sic] Extension of Time [#92] is **GRANTED IN PART AND DENIED IN PART** as follows:

- Plaintiff's request for the appointment of appellate counsel is **DENIED**.

- Plaintiff's request for an extension of time to file his appeal is **GRANTED**.

**IT IS THEREFORE ORDERED** that Plaintiff file his Notice of Appeal in this Court on or before **November 25, 2019**.

SIGNED this 1st day of October, 2019.



ELIZABETH S. ("BETSY") CHESTNEY  
UNITED STATES MAGISTRATE JUDGE