

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Michelle Diana Celillo v. Commissioner of Social Security

Celillo v. Commissioner of Social Security · No. 2:24-cv-01031-CKD · Decided June 24, 2025

SUMMARY

The United States District Court for the Eastern District of California granted Michelle Diana Celillo’s motion for an extension of time to file a notice of appeal from the April 15, 2025 judgment. The court found good cause based on plaintiff’s pro se status and efforts to obtain new appellate counsel, and extended the filing deadline to August 13, 2025.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	June 24, 2025
DOCKET	2:24-cv-01031-CKD
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rule of Appellate Procedure 4(a)(5) for an extension of time to file a notice of appeal from the April 15, 2025 judgment.
STANDARD OF REVIEW	Under Federal Rule of Appellate Procedure 4(a)(5), the district court determines whether a timely motion shows excusable neglect or good cause for extending the notice-of-appeal deadline.
PRECEDENTIAL VALUE	Unknown; unpublished district court order
PARTIES	Michelle Diana Celillo v. Commissioner of Social Security

TOPICS

- appellate procedure
- final judgment rule
- civil procedure

PRACTICE AREAS

- Social Security
- Appellate Procedure
- Civil Procedure

QUESTIONS PRESENTED

- 1. Whether the district court could extend the time for plaintiff to file a notice of appeal under Federal Rule of Appellate Procedure 4(a)(5).
- 2. Whether plaintiff's pro se status and effort to obtain new appellate counsel constituted good cause for an extension.

HOLDINGS

- 1. A district court may extend the time to file a notice of appeal when the party timely moves under Federal Rule of Appellate Procedure 4(a)(5) and establishes excusable neglect or good cause.
- 2. Plaintiff's timely motion, current pro se status, and attempt to find new counsel constituted good cause to extend the time for filing a notice of appeal.

KEY QUOTATIONS

“This time constraint is “both mandatory and jurisdictional.”” (at 1)

FACTUAL BACKGROUND

The court had entered final judgment on April 15, 2025, in an action involving the Commissioner of Social Security. Plaintiff was no longer represented by counsel and was attempting to obtain new counsel for an appeal. She filed her motion to extend the appeal deadline on June 13, 2025, before the original June 14 deadline expired.

PROCEDURAL HISTORY

The district court entered judgment on April 15, 2025. Because the United States was a party, the notice of appeal was due within 60 days, by June 14, 2025. Plaintiff, proceeding pro se after becoming unrepresented, moved on June 13, 2025, for a 60-day extension to locate new appellate counsel. The court granted the motion and extended the deadline to August 13, 2025.

DISPOSITION

other

CASES CITED

- United States v. Sadler, 480 F.3d 932, 937 (9th Cir. 2007)

OPINION

(SS) Celillo v. Commissioner of Social Security
PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 MICHELLE DIANA CELILLO, No. 2:24-cv-01031-CKD

12 Plaintiff, 13 v. ORDER

14 COMMISSIONER OF SOCIAL
SECURITY,

15 Defendant. 16

17 18 Before the court is plaintiff's motion for an extension of time to file a notice of appeal of 19
the April 15, 2025 judgment in this action. (ECF No. 16.) 20 Because an agency of the United
States is a party, the notice of appeal was required to be 21 filed within sixty days after the entry of
final judgment. Fed. R. App. P. 4(a)(1)(B). This time 22 constraint is "both mandatory and
jurisdictional." United States v. Sadler, 480 F.3d 932, 937(9th
23 Cir. 2007). Given the April 15, 2025 judgment, plaintiff's notice of appeal was due no later than
24 June 14, 2025.

25 Plaintiff filed the instant motion to extend time on June 13, 2025, requesting a 60-day 26
extension of time to find new counsel for her appeal, as she is no longer represented by counsel in
27 this matter. (ECF No. 16.) Under Rule 4(a)(5) of the Federal Rules of Appellate Procedure, the
28 district court may extend the time to file a notice of appeal if: 1 (i) a party so moves no later
than 30 days after the time prescribed by this Rule 4(a) expires; and 2 (ii) regardless of whether its
motion is filed before or during the 30 3 days after the time prescribed by this Rule 4(a) expires,
that party shows excusable neglect or good cause. 4 5 Here, plaintiff timely moved to extend time
to file an appeal, and her current pro se status 6 | and attempt to find new counsel to represent her
in the appeal constitute good cause to extend 7]. time. 8 Accordingly, IT IS HEREBY ORDERED
THAT: 9 10 1. Plaintiff's motion for extension of time to file notice of appeal (ECF No 16) is 11
GRANTED; and 12 2. Plaintiff shall file any notice of appeal on or before August 13, 2025.

Dated: June 23, 2025 4 ☐☐ .. oe 14 (NO flu i : i e { eng

15 CAROLYN K. DELANEY

UNITED STATES MAGISTRATE JUDGE

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