

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Gene Allen v. Black and Pink and Dominique Morgan

Allen · No. 8:20-cv-00361 · Decided February 10, 2026

SUMMARY

The United States District Court for the District of Nebraska denied Gene Allen's request to proceed in forma pauperis on appeal. The court held that his notice of appeal, filed more than four years after judgment and after the denial of his Rule 60(b) motion, was untimely and certified that the appeal was not taken in good faith.

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA GENE ALLEN, Plaintiff, 8:20CV361 vs. MEMORANDUM AND ORDER BLACK AND PINK and DOMINIQUE MORGAN, Executive Director of Black and Pink, Defendants. This matter is before the Court on Plaintiff's Notice of Appeal, Filing No. 50, and a memorandum from the Clerk of the Court requesting a ruling as to Plaintiff's authorization to proceed in forma pauperis on appeal, Filing No. 52.

The Notice of Appeal was filed over four years after the Court entered its judgment in this case. Federal Rule of Appellate Procedure 4(a)(1)(A) sets forth that a notice of appeal in a civil case must be filed within 30 days of the entry of judgment. This requirement is both "mandatory and jurisdictional." *Burgs v. Johnson Cnty., Iowa*, 79 F.3d 701, 702 (8th Cir.

1996). A district court may extend the time to file a notice of appeal if a party moves for an extension of time and shows excusable neglect or good cause, provided that the party moves for the extension of time within 30 days of the expiration of the 30-day period set out in Rule 4(a)(1)(A). Fed. R. App. P. 4(a)(5)(A)(ii).

In addition, if a party files one of the post-judgment motions listed in Rule (a)(4)(A), the time to file the appeal runs from the entry of the order disposing of the motion. Fed. R. App. P. 4(a)(4)(A). An untimely notice of appeal cannot serve as a motion for extension of time to file an appeal. *Burgs*, 79 F.3d at 702.

Here, the Court entered a final judgment dismissing this case on October 7, 2021. Plaintiff then filed a post-judgment motion for relief from the judgment pursuant to Fed. R. Civ. P. 60(b) on November 15, 2021, which the Court denied on November 16, 2021. Plaintiff filed his Notice of Appeal over four years later on January 29, 2026.

Because Plaintiff's appeal is grossly untimely, the Court certifies Plaintiff's appeal is not taken in good faith and he is not entitled to proceed in forma pauperis on appeal. See 28 U.S.C. § 1915(a)(3) (“An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.”). IT IS THEREFORE ORDERED that: Plaintiff may not proceed on appeal in forma pauperis.

Dated this 10th day of February, 2026. BY THE COURT: M. Gerrard enior United States District Judge