

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Duckett v. Garcia

No. 23-cv-04748 BLF (PR), United States District Court for the Northern District of California (August 7, 2025)

OPINION

Duckett v. Garcia

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10

JASMINE DUCKETT,

11 Case No. 23-cv-04748 BLF (PR) Plaintiff,

12 ORDER GRANTING MOTION FOR

v. EXTENSION OF TIME TO FILE

13 NOTICE OF APPEAL

14 P. GARCIA,

15 Defendant. 16 (Docket No. 28)

17 18 Plaintiff, a state inmate, filed a pro se civil rights complaint under 42 U.S.C. § 19 1983. On
June 17, 2025, the Court granted Defendant’s motion for summary judgment 20 and entered
judgment the same day. Dkt. Nos. 25, 26. On August 4, 2025, Plaintiff filed a 21 motion for an
extension of time to file a notice of appeal, Dkt. No. 28, along with the 22 notice of appeal, Dkt.
No. 27. Plaintiff states that she did not receive the final court order 23 and judgment until the first
week of July due to being transferred to the California Medical 24 Facility. Id. at 2. Plaintiff was
subsequently able to get help with her appeal and filed the 25 instant motion and the Notice of
Appeal. Id. at 3. 26 An appeal of right may be taken only by filing a valid notice of appeal in the
district 27 court within the time allowed by the Federal Rules of Appellate Procedure. Fed. R.
App. 1 || appeal “be filed with the district clerk within 30 days after the entry of the judgment or 2
|| order appealed from.” Fed. R. App. P. 4(a)(1)(A). Rule 4(a)(5) allows a motion for an 3 ||
extension of time if the party requests it within thirty days of the expiration of the time to 4 || file
the notice and shows excusable neglect or good cause. See Fed. R. App. P. 4(a)(5)(A); 5 || accord
28 U.S.C. § 2107(c) (“The district court may, upon motion filed not later than 30 6 || days after the
expiration of the time otherwise set for bringing appeal, extend the time for 7 || appeal upon a
showing of excusable neglect or good cause.”). Rule 4(a)(5) requires a 8 || “formal motion” that,
among other things, “explicitly request[s] an extension of time.” 9 || *Malone v. Avenenti*, 650 F.2d

569, 572 (9th Cir. 1988) 10 Since judgment was entered on June 17, 2025, Plaintiff had until July 17, 2025, to 11 || file a timely notice of appeal. Fed. R. App. P. 4(a)(1). Under Rule4(a)(5), Plaintiff had 2 thirty days thereafter, 7.e., until August 16, 2025, to file a motion for an extension of time. E 13 Therefore, the motion filed on August 4, 2025, was timely filed. Furthermore, the Court S 14 || finds Plaintiff has shown good cause for the request based on the delay of mail and need to 3 15 || find assistance. 16 Based on the foregoing, Plaintiff's motion is GRANTED. The notice of appeal is 5 17 deemed timely filed. 5 18 This order terminates Docket No. 28. 19 IT IS SO ORDERED. 20 || Dated: — August 7, 2025 □□□ hcchian
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United States District Judge 22 23 24 |) pRo-sHBLACR 23004748Dueker cot appeal 26 27