

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

February 22, 2013

Elisabeth A. Shumaker
Clerk of Court

SEAN WRIGHT,

Plaintiff - Appellant,

v.

JOHN AND JANE DOE, Alaska MAC
Committee; TAMATHA KAY ANDING,
H.S.A.,

Defendants - Appellees.

No. 13-1018
(D.C. No. 1:12-CV-01151-LTB)
(D. Colo.)

ORDER

Before **BRISCOE**, Chief Judge, **TYMKOVICH**, and **HOLMES**, Circuit Judges.

Mr. Wright seeks to appeal from the district court's November 7, 2012 dismissal of his civil rights complaint, and the December 4, 2012 denial of his motion to reconsider. Based upon Mr. Wright's response to this court's order of January 24, 2013, and based upon a review of the file as a whole, the court concludes that this appeal is untimely.

Pursuant to Fed. R. App. P. 4 (a)(1)(A) and Fed. R. App. P. 4 (a)(4)(A), Mr. Wright had 30 days (to and including January 3, 2013) in which to file his notice of appeal. It was not filed until January 22, 2013. Mr. Wright has failed to show that anything that could be construed as a notice of appeal was filed (or mailed in compliance with the prison mailbox rule - Fed. R. App. P. 4 (c)) on or before the January 3, 2013 due

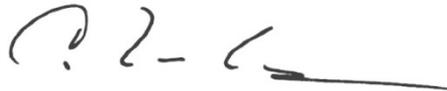
date. (Mr. Wright's December 26, 2012 letter to this court requesting forms did not constitute a timely notice of appeal.)

Mr. Wright did not request an extension of time from the district court to file his notice of appeal and this court cannot grant such an extension. *See* Fed. R. App. P. 4 (a)(5) and *Alva v. Teen Help*, 469 F.3d 946, 950 (10th Cir. 2006) (court of appeals lacks authority to find excusable neglect and extend the time for filing notice of appeal; only the district court may do so).

Because the notice of appeal was untimely, this court lacks jurisdiction to consider this appeal. *Bowles v. Russell*, 551 U.S. 205 (2007).

APPEAL DISMISSED

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Christine Van Coney
Counsel to the Clerk