

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-20323
USDC No. 4:96-CV-3051

RAYMOND GONZALES,

Plaintiff-Appellant,

versus

UPENDRA KATRAGADDA,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas

November 3, 1999

Before HIGGINBOTHAM, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

"This Court must examine the basis of its jurisdiction, on its own motion, if necessary." Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). In this prisoner civil rights case, the district court entered the final judgment on December 23, 1997. Thereafter, on April 7, 1998, plaintiff Raymond Gonzales filed a notice of appeal and a motion for an extension of the time to file the notice. The district court denied the motion on grounds that it was not timely.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

The time limitation for filing a notice of appeal is jurisdictional. Robbins v. Maggio, 750 F.3d 405, 408 (5th Cir. 1985). Rule 4(a)(1), Fed. R. App. P., requires that the notice of appeal in a civil action be filed within 30 days of entry of the judgment. Rule 4(a)(5) provides that the district court may extend the time for filing a notice of appeal upon a showing of excusable neglect, if the appellant moves for such an extension within 30 days after the expiration of the initial 30-day time for appeal. Sanchez v. Board of Regents of Texas Southern University, 625 F.2d 521, 523 (5th Cir. 1980).

Since the final judgment in Gonzales's case was entered on December 23, 1997, the last day for filing a timely notice of appeal was January 22, 1998. Thereafter, Gonzales had until February 21, 1998, to file his motion for an extension of the time in which to file his notice of appeal. Gonzales filed his said motion more than six weeks too late. Furthermore, Gonzales failed to file a notice of appeal from the district court's order denying his untimely motion for an extension of the time for filing a notice of appeal relative to the final judgment. Accordingly, his motions for the appointment of counsel and for the disclosure of information are DENIED and this appeal is DISMISSED.

MOTIONS DENIED; APPEAL DISMISSED.