

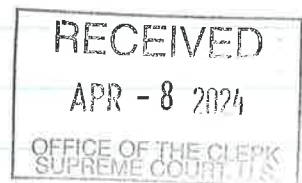
March 14th, 2024

To Court Clerk,

My name is Terrance Brown, I have sent this letter to your office in regards to requesting an extension of time for a petition of writ of certiorari in reference to case no. 23-6090 from the Sixth Circuit Court of Appeals. I do have a panel rehearing in on this matter that has not been reviewed by the circuit yet, to my knowledge and upon receiving U.S. mail pertaining to matter. I have also been submitted for a institution transfer to another facility and am unsure if I will have all documents needed to file petition with this court referencing U.S. mail and inmate property issues, but soon as I get situated I will be filing with this court if needed, upon receiving panel rehearing order via Sixth Circuit Court of Appeals. Thank you for your time, help, and consideration with this matter.

Respectfully,

Terrance Brown



NOT RECOMMENDED FOR PUBLICATION

No. 23-6070

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Feb 5, 2024
KELLY L. STEPHENS, Clerk

TERRANCE BROWN,)	
)	
Plaintiff-Appellant,)	
)	ON APPEAL FROM THE UNITED
v.)	STATES DISTRICT COURT FOR
)	THE EASTERN DISTRICT OF
GOVERNOR ANDREW G. BESHEAR,)	KENTUCKY
)	
Defendant-Appellee.)	

ORDER

Before: GIBBONS, GRIFFIN, and DAVIS, Circuit Judges.

“Every federal appellate court has a special obligation to satisfy itself . . . of its own jurisdiction” *Alston v. Advanced Brands & Importing Co.*, 494 F.3d 562, 564 (6th Cir. 2007) (quoting *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 95 (1998)). Generally, in a civil case where neither the United States, a United States agency, nor a United States officer or employee is a party, a notice of appeal must be filed within 30 days after the judgment or order appealed from is entered. 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A).

Terrance Brown filed suit against Kentucky Governor Andrew G. Beshear, claiming that the governor violated his civil rights. On October 19, 2023, the district court dismissed the complaint for Brown’s failure to state a claim upon which relief could be granted. On December 8, 2023, Brown filed a notice of appeal.

We noted that the notice of appeal appeared to be late and informed Brown that we would be required to dismiss the appeal unless he moved for an extension of time to appeal under Federal Rule of Appellate Procedure 4(a)(5) or for reopening of the appeal under Federal Rule of Appellate

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Procedure 4(a)(6) and the district court granted the motion. We directed Brown to show cause as to why the appeal should not be dismissed for a late notice of appeal.

Brown has filed a response, claiming that the notice of appeal “was timely filed 50 days after judgment.” Brown cites in support Federal Rule of Appellate Procedure 4(a)(1)(B)(iii), (iv), and (c)(1)(A)(ii). Subsections (a)(1)(B)(iii) and (iv) provide that a notice of appeal must be filed within 60 days after judgment when a party is a United States officer and is sued in either his official or individual capacity. Subsection (c)(1)(A)(ii) provides that a notice of appeal is considered filed by an inmate confined in an institution when it is deposited in the institution’s mail system. Because his notice of appeal was timely, Brown asserts, filing a motion for an extension or reopening in the district court would be unnecessary.

Brown’s notice of appeal is late. A party has 60 days to appeal only when the United States or one of its agencies, officers, or employees is a party. *See* Fed. R. App. P. 4(a)(1)(B). The Governor of Kentucky is not an officer or employee of the United States. Moreover, after filing his response in this court, Brown filed a pleading in the district court titled “motion to clarify timely notice of appeal filing.” The district court has construed that pleading as a motion for extension of time to appeal and, on January 4, 2024, denied the request. Brown then filed another motion that requested the same clarification. The district court denied that motion without prejudice to his right to raise the request with this court and forwarded a copy of the motion to this court for filing.

Brown’s failure to timely file a notice of appeal deprives this court of jurisdiction. The statutory requirement in § 2107(a) that the notice of appeal be filed within 30 days after the entry of a judgment is a mandatory and jurisdictional prerequisite that this court may not waive. *Bowles v. Russell*, 551 U.S. 205, 209 (2007).

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It is therefore ordered that the appeal is **DISMISSED**. Brown's "motion to clarify timely notice of appeal" that was forwarded by the district court and filed in this court is **DENIED** as moot.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

No. 23-6070

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Mar 13, 2024
KELLY L. STEPHENS, Clerk

TERRANCE BROWN,)
)
Plaintiff-Appellant,)
)
v.)
)
GOVERNOR ANDREW G. BESHEAR,)
)
Defendant-Appellee.)
)
)

ORDER


Before: GIBBONS, GRIFFIN and DAVIS, Circuit Judges.

Terrance Brown filed a petition for rehearing of this court’s February 5, 2024, order dismissing this appeal for lack of jurisdiction.

Upon careful consideration, this panel concludes that it did not misapprehend or overlook any point of law or fact when it entered the decision. *See* Fed. R. App. P. 40(a).

The petition for rehearing is **DENIED**.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk