

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ANDRE ROBINSON,

Plaintiff,

vs.

CIVIL ACTION
No. 06-3225-SAC

RAY ROBERTS, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter comes before the court on plaintiff's motion to reopen this matter (Doc. 71).

This matter is a civil rights action filed pursuant to 42 U.S.C. § 1983. The action was dismissed by the court's Memorandum and Order entered on March 4, 2009 (Doc. 68), and the docket¹ reflects that copies of the order and judgment were mailed to plaintiff on that day. The order was not returned as undeliverable.

The court's docket shows no other activity in this matter until March 18, 2010, when plaintiff filed a notice of change of address. A notation on the docket shows the clerk of the court remailed the Memorandum and Order and the judgment to the

¹A copy of the docket sheet is attached.

plaintiff on the same day. Plaintiff filed the present motion on March 30, 2010.

Pursuant to the rules of the court, "Any notice mailed to the last address of record of an attorney or a party appearing *pro se* shall be sufficient notice." D. Kan. R. 5.1(c). Thus, the notice provided was correct and plaintiff is not entitled to relief under the local rules.

Plaintiff's request may also be construed as a motion to reopen pursuant to Federal Rule of Appellate Procedure 4(a)(6). Rule 4(a)(6) allows the district court to "reopen the time to file an appeal" where three conditions are met, including the condition that "the motion is filed within 180 days after the judgment or order is entered or within 7 days after the moving party receives notice ... of the entry, whichever is earlier." Fed. R. App. P. 4(a)(6)(B)(emphasis supplied). Because the plaintiff did not request reopening of the matter until more than one year after the entry of judgment, he cannot satisfy that condition.

IT IS, THEREFORE, BY THE COURT ORDERED plaintiff's motion to reopen the case (Doc. 71) is denied.

Copies of this order shall be transmitted to the parties.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 24th day of November, 2010.

S/ Sam A. Crow
SAM A. CROW
United States Senior District Judge