

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

January 21, 2014

Elisabeth A. Shumaker
Clerk of Court

CHRIS TILLOTSON,

Plaintiff - Appellant,

v.

PUEBLO STATE HOSPITAL; THE
STATE ATTORNEY GENERAL,

Defendant - Appellees.

No. 13-1406
1:13-CV-00896-LTB
(D. Colo.)

ORDER AND JUDGMENT*

Before **HARTZ, GORSUCH**, and **PHILLIPS**, Circuit Judges.

Chris Tillotson filed suit under 42 U.S.C. § 1983 against Pueblo State Hospital and the Attorney General of Colorado. The district court dismissed the complaint as legally frivolous because it did not allege facts stating any colorable claim against the named defendants and it was barred by the statute of limitations. Mr. Tillotson then filed an

* After examining appellant's brief and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2) and 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

untimely appeal, which we dismissed, noting that he had not requested an extension of time from the district court. A week after our dismissal, he filed a pleading in district court requesting an extension “on the statue [sic] of limitations in the case.” R. at 46. We liberally construe this request as a motion to extend time for filing a notice of appeal. The district court denied the request. Mr. Tillotson appeals.

Mr. Tillotson’s brief in this court argues only the merits of his underlying claim, not the propriety of the denial of his extension request, which is all that we have jurisdiction to review. *See Bishop v. Corsentino*, 371 F.3d 1203, 1206 (10th Cir. 2004) (“A district court’s order refusing to extend the time for filing a notice of appeal is itself an appealable final judgment.”); *Servants of Paraclete v. Does*, 204 F.3d 1005, 1008–09 (10th Cir. 2000) (court has jurisdiction to review denial of a postjudgment Rule 60(b) motion but appeal does not extend to review of decision underlying the judgment). Our review of denial of a motion to extend time for appeal is for abuse of discretion. *See Bishop*, 371 F.3d at 1206. We see no abuse of discretion here.

We AFFIRM the district court’s decision and DISMISS the appeal. We DENY Mr. Tillotson’s motion to pay the filing fee in partial payments and remind him that he must pay the full fee.

ENTERED FOR THE COURT

Harris L Hartz
Circuit Judge