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2-18-2016

Nasir Finnemen v. Delaware River Port Authority

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 15-2209

NASIR FINNEMEN,
Appellant

v.

DELAWARE RIVER PORT AUTHORITY;
OFFICER KHARY BULLOCK

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 1-13-cv-04802)
District Judge: Honorable Renee M. Bumb

Submitted Pursuant to Third Circuit LAR 34.1(a)
February 17, 2016

Before: FISHER, SHWARTZ and COWEN, Circuit Judges

(Opinion filed: February 18, 2016)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Pro se litigant Nasir Finnemen appeals the District Court's denial of his motion to file an appeal out of time. We will affirm.¹

In 2013, Finnemen filed a civil rights complaint in U.S. District Court in Camden, New Jersey, alleging excessive force against the Delaware River Port Authority and Delaware River Port Authority Officer Khary Bullock. The alleged incident took place October 3, 2009, and Finnemen filed his complaint August 3, 2013. The District Court dismissed the complaint because the statute of limitations for bringing such actions is two years, making the complaint almost two years late. The District Court later denied Finnemen's motion to reopen on February 27, 2014. Some nine months later, on December 2, 2014, Finnemen filed a notice of appeal and a motion for leave to file the appeal out of time.

The District Court denied Finnemen's motion to appeal out of time, finding his motion untimely under Fed. R. App. P. 4(a)(5). In the alternative, the District Court found that, even if Finnemen had filed a timely motion for an extension of the appellate deadline, he had not shown excusable neglect or good cause as required by Fed. R. App. P. 4(a)(5)(A).

We have jurisdiction pursuant to 28 U.S.C. § 1291. The District Court's denial of Finnemen's Rule 4(a)(5) motion is subject to review for abuse of discretion. See Ramseur v. Beyer, 921 F.2d 504, 506 (3d Cir. 1990).

¹ Finnemen has filed a motion to file a supplement appendix. We grant that motion, and we have reviewed Finnemen's submission.

We find the District Court did not abuse its discretion. In this case, Finnemen has not complied with the filing 30-day deadline for seeking an extension of time to appeal under Fed. R. App. P. 4(a)(5). Finnemen's motion is also outside the 180-day period for reopening an appeal under Fed. R. App. P. 4(a)(6). Therefore, we will affirm.