

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

BARBARA LYNN RYMER,

Plaintiff,

v.

Case No: 2:16-cv-763-FtM-CM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

This matter comes before the Court upon review of Plaintiff's Motion for Extension of Time to File a Notice of Appeal (Doc. 31) filed on January 18, 2018. Plaintiff seeks an extension of time to file a notice of appeal because she retained an attorney practicing in Wisconsin to represent her on appeal. Doc. 31. Plaintiff's counsel Carol Avard, Mark V. Zakhvatayev and Craig Edward Polhemus have not filed a motion to withdraw as counsel of record for Plaintiff.

Rule 4(a)(1) of the Federal Rules of Appellate Procedure states that if one of the parties is a United States officer or employee sued in an official capacity, a party may file a notice of appeal within 60 days from entry of judgment. Fed. R. App. P. 4(a)(1)(B). Here, the deadline to file a notice of appeal is January 22, 2018 because judgment was entered on November 22, 2017. Doc. 30; *see id.*

Rule 4(a)(5) of the Federal Rules of Appellate Procedure further states the district court may extend the time to file a notice of appeal if a party seeks an extension no later than 30 days after the time to appeal has expired and shows good

cause for an extension. Fed. R. App. P. 4(a)(5)(A). The court's extension of time may not exceed "30 days after the prescribed time or 14 days after the date when the order granting the motion is entered, whichever is later." Fed. R. App. P. 4(a)(5)(C). Here, based on Plaintiff's representations, the Court finds good cause for an extension of time and will extend the deadline to file a notice of appeal to February 21, 2018. *See* Fed. R. App. P. 4(a)(5)(A). The Court reminds Plaintiff that pursuant to the Federal Rules of Appellate Procedure, Plaintiff may not obtain any further extension of time to file a notice of appeal. *See* Fed. R. App. P. 4(a)(5)(C).

In addition, the Court notes Plaintiff's counsel have not moved to withdraw as counsel of record, although Plaintiff represents she retained another attorney to represent her and filed the present motion *pro se*. Doc. 31. Pursuant to the Local Rules of this Court, "no attorney, having made a general appearance under subsection (a) of [Local Rule 2.03] shall thereafter abandon the case or proceeding in which the appearance was made, or withdraw as counsel for any party therein, except by written leave of Court obtained after giving ten (10) days' notice to the party or client affected thereby, and to opposing counsel." M.D. Fla. Rule 2.03(b). Accordingly, the Court will direct Plaintiff's counsel to comply with Local Rule 2.03(b) if they seek to withdraw as counsel of record for Plaintiff, or notify the Court if counsel continue to represent Plaintiff.

ACCORDINGLY, it is hereby

ORDERED:

1. Plaintiff's Motion for Extension of Time to File a Notice of Appeal (Doc. 31) is **GRANTED**. Plaintiff shall have up to and including **February 21, 2018** to file a notice of appeal.

2. Plaintiff's counsel shall have up to and including **February 5, 2018** to comply with Local Rule 2.03(b) if they seek to withdraw as counsel of record for Plaintiff, or notify the Court if counsel continue to represent Plaintiff.

DONE and **ORDERED** in Fort Myers, Florida on this 22nd day of January, 2018.


CAROL MIRANDO
United States Magistrate Judge

Copies:
Counsel of record
Unrepresented parties
Carol Avarad, Esq.
Mark V. Zakhvatayev, Esq.
Craig Edward Polhemus, Esq.