

In the  
United States Court of Appeals  
For the Eleventh Circuit

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No. 24-12881

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BRETT WILLIAM STEWART,

Plaintiff-Appellant,

*versus*

ANN-MARIE BROWN,

Correctional Probation Supervisor / Officer,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Northern District of Florida  
D.C. Docket No. 1:23-cv-00126-AW-MAF

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Before JORDAN and LUCK, Circuit Judges.

## BY THE COURT:

Brett Stewart, proceeding *pro se*, appeals the district court's August 5, 2024, order and judgment that dismissed his action.

Stewart's September 6, 2024, notice of appeal is untimely by two days. *See* 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A). However, Stewart included with his untimely notice a letter in which he suggested that a power outage caused by a hurricane delayed his receipt of notice of the August 5 order and in which he appeared to seek additional time to appeal. That letter could be construed as a motion for an extension of time to file a notice of appeal under Fed. R. App. P. 4(a)(5) or a motion to reopen the time to file a notice of appeal under Fed. R. App. P. 4(a)(6). *See* 28 U.S.C. § 2107(c); Fed. R. App. P. 4(a)(5)(A), 4(a)(6) (providing the district court with authority to extend or reopen the appeal period upon motion); *Sanders v. United States*, 113 F.3d 184, 187 (11th Cir. 1997) (explaining that we will construe a late notice of appeal as a Rule 4(a)(6) motion if the appellant indicates that he did not receive notice of the final order or judgment within 21 days of entry); *Pinson v. JPMorgan Chase Bank, Nat'l Ass'n*, 942 F.3d 1200, 1206 (11th Cir. 2019) (explaining that we construe *pro se* pleadings liberally). As that letter was not docketed separately from the notice of appeal, it appears that the district court has not had an opportunity to consider it.

Accordingly, we REMAND the case to the district court for the limited purpose of determining whether Stewart's letter included with his untimely notice of appeal should be construed as a

24-12881

Order of the Court

3

Rule 4(a)(5) or 4(a)(6) motion and, if so, whether he is entitled to relief under either of those Rules. After making its determinations, the district court shall return the record, as supplemented, to this Court for further proceedings.