

16-658 HAMER V. NEIGHBORHOOD HOUSING

DECISION BELOW: 835 F.3d 761

LOWER COURT CASE NUMBER: 15-3764

QUESTION PRESENTED:

A district court may extend the time to file a notice of appeal in a civil case "upon motion filed not later than 30 days after the expiration of the time otherwise set for bringing appeal, . . . upon a showing of excusable neglect or good cause." 28 U.S.C. § 2107(c). Here, upon timely motion, the district court granted Petitioner Charmaine Hamer ("Ms. Hamer") a sixty-day extension of time to file a notice of appeal. Ms. Hamer filed a notice of appeal within the time set by the district court. The United States Court of Appeals for the Seventh Circuit nevertheless *sua sponte* dismissed the appeal for lack of jurisdiction. In doing so, the Seventh Circuit concluded that it was deprived of jurisdiction because Ms. Hamer's notice of appeal was filed outside the time permitted by the Federal Rules of Appellate Procedure, which provide that "[n]o extension under this Rule 4(a)(5) may 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).

The question presented is as follows:

Whether Federal Rule of Appellate Procedure 4(a)(5)(C) can deprive a court of appeals of jurisdiction over an appeal that is statutorily timely, as the Second, Fourth, Seventh, and Tenth Circuits have concluded, or whether Federal Rule of Appellate Procedure 4(a)(5)(C) is instead a nonjurisdictional claim-processing rule because it is not derived from a statute, as the Ninth and D.C. Circuits have concluded, and therefore subject to equitable considerations such as forfeiture, waiver, and the unique-circumstances doctrine.

CERT. GRANTED 2/27/2017