IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EFRAIN CAMPOS, JUAN NIETO, and STANLEY NEWAGO,

Plaintiffs,

v.

MICHAEL DITTMAN, LINDA ALSUM O'DONOVAN, DAVID KURKOWSKI, LUCAS M. WEBER, KEVIN W. PITZEN, BRAD HOMRE, and CINDY O'DONNELL,

Defendants.

ORDER

Case No. 17-cv-545-jdp
Appeal No. 18-1551

Judgment was entered in this case on February 6, 2018, after I denied plaintiffs leave to proceed on their claims against defendants and dismissed their complaint with prejudice for failure to state a claim upon which relief can be granted. Dkt. 47 and Dkt. 48. On March 12, plaintiff Juan Nieto filed a notice of appeal. Dkt. 56. But because he never paid the $505 filing fee for the appeal nor filed a motion for leave to proceed on appeal *in forma pauperis*, the United States Court of Appeals for the Seventh Circuit dismissed his appeal on May 9, 2018. *See* Dkt. 62. Now Nieto has filed a letter indicating that on April 10, 2018, he sent a motion for an extension of the deadline for paying the filing fee or moving for leave to proceed on appeal *in forma pauperis*. Dkt. 64. He asks that I reconsider the decision to dismiss his appeal.

The court never received Nieto's motion for an extension, and regardless, I cannot reconsider the decision to dismiss his appeal or retroactively extend the deadline because this court does not have jurisdiction over Nieto's appeal. *See United States v. Queen*, 847 F.2d 346, 350 (7th Cir. 1988) ("Once an appeal has been taken, the general rule is that a district court—

with limited exceptions—is powerless to take any adjudicatory action related to the appeal."). It was the court of appeals, not this court, that dismissed the appeal. If Nieto believes that his appeal should not have been dismissed, he should file a motion in the court of appeals. *See* Fed. R. App. P. 26(b).

ORDER

IT IS ORDERED that plaintiff Juan Nieto's motion for reconsideration or an extension, Dkt. 64, is DENIED.

Entered May 21, 2018.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge