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To the Advisory Committee on Appellate Rules:

I offer the following comment concerning the style of the Committee's proposed revisions to Fed. R. App. P. 4(a)(6).

Subsections (A), (B), and (C) of Rule 4(a)(6) enumerate three respective conditions that must be satisfied before a district court may reopen the time for appeal. Although proposed subsections (A) and (C) are preceded by the phrase "the court finds that," subsection (B) is not. It could very well be that the inclusion of "the court finds that" is purposeful, perhaps emphasizing that the determinations to be made in subsections (A) and (C) are factual findings subject to "clearly erroneous" review, while the subsection (B) determination is a different creature. But if no purpose is intended by the language, I recommend that the Committee remove it as extraneous and potentially confusing.

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