

UNITED STATES COURT OF APPEALS January 4, 2011

FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE PEREZ-ACEVEDO,

Defendant - Appellant.

No. 10-4203
(D.C. No. 2:04-CR-00469-DB-1)
(D. Utah)

ORDER

Before **LUCERO, GORSUCH**, and **HOLMES**, Circuit Judges.

This is a direct criminal appeal filed nearly six years after entry of the criminal judgment. Defendant, proceeding *pro se*, appeals. The appeal is dismissed.

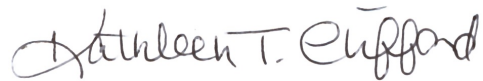
In a criminal appeal, a defendant's notice of appeal is to be filed within 14 days after entry of judgment. *See* Fed. R. App. P. 4(b)(1)(A)(i). This rule is an “inflexible claim-processing rule[,]’ which unlike a jurisdictional rule, may be forfeited if not properly raised by the government.” *United States v. Garduno*, 506 F.3d 1287, 1291 (10th Cir.2007). However, “[b]ecause Rule 4(b) implicates important judicial interests beyond those of the parties, we hold that this court may raise its time bar *sua sponte*. This power, however, is limited and should not be invoked when judicial resources and administration are not

implicated and the delay has not been inordinate.” *United States v. Mitchell*, 518 F.3d 740, 750 (10th Cir. 2008).

Under the facts of this case, dismissal is appropriate. The notice of appeal was filed inordinately late.

APPEAL DISMISSED.

Entered for the Court,
Elisabeth A. Shumaker, Clerk

A handwritten signature in dark ink, appearing to read "Kathleen T. Clifford". The signature is written in a cursive, flowing style.

Kathleen T. Clifford
Attorney - Deputy Clerk