

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 28, 2014

**Elisabeth A. Shumaker
Clerk of Court**

ADAM KARTIGANER,

Plaintiff - Appellant,

v.

JUAB COUNTY; HOBY METZ, UHP
Officer, in his personal and official
capacities; BARRY C. CONOVER,

Defendants - Appellees,

and

MAY AUTOMOTIVE TOWING, LLC;
RODNEY G. MARRELLI,

Defendants.

No. 14-4055
(D.C. No. 2:10-CV-00842-CW)

ORDER

Before **LUCERO**, **TYMKOVICH**, and **BACHARACH**, Circuit Judges.

This court lacks jurisdiction over this appeal because the notice of appeal was filed late.

Judgment was entered on April 23, 2014. The notice of appeal was due by Friday May 23. It was filed on May 27, the Tuesday following Memorial Day.

In a civil case, in which the United States is not a party, a notice of appeal must be filed within 30 days of entry of judgment. *See* 28 U.S.C. § 2107(a) (a notice of appeal in

a civil matter must be filed within 30 days of entry of judgment); Fed. R. App. P. 4(a)(1)(A). A timely notice of appeal in a civil case is both mandatory and jurisdictional. *See Bowles v. Russell*, 551 U.S. 205, 209, 213 (2007).

None of the arguments presented by the plaintiff allows this appeal to go forward. The rule set forth in *Houston v. Lack*, 487 U.S. 266 (1988) (holding that a pro se prisoner's notice of appeal is deemed filed when it is delivered to prison officials for forwarding to the district court) is not applicable to individuals who are not incarcerated. *See* Fed. R. App. P. 4(c) (only those who are incarcerated are included in the rule which implements *Houston*). To the extent the plaintiff is asking this court to extend the time to file his notice of appeal, this court lacks authority to do so. *See* Fed. R. App. P. 26(b). Only the district court may grant an extension of time in which to file an appeal and only under limited circumstances and for a limited time. 28 U.S.C. § 2107(c); Fed. R. App. P. 4(a)(5).

Because the appeal was filed more than 30 days after entry of judgment, this court lacks jurisdiction. **APPEAL DISMISSED.**

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

by: Ellen Rich Reiter
Jurisdictional Attorney