

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 29, 2016

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

AUBREY D. PARKS,

Defendant - Appellant.

No. 16-1256
(D.C. No. 1:03-CR-00490-WYD-1)
(D. Colo.)

ORDER

Before **BRISCOE**, **BACHARACH**, and **MORITZ**, Circuit Judges.

Appellant seeks review of the judgment entered in his criminal case on July 13, 2015. Appellant filed his notice of appeal on June 16, 2016.

In a criminal case, a defendant's notice of appeal must be filed in the district court within 14 days after entry of either the judgment or the order being appealed. Fed. R. App. P. 4(b)(1)(A)(i). The timely filing of a notice of appeal by the defendant is an inflexible claim-processing rule that may be forfeited if not properly raised by the government. *United States v. Garduño*, 506 F.3d 1287, 1290-91 (10th Cir. 2007). However, because Rule 4(b) implicates important judicial interests beyond those of the parties, the court may raise the time bar *sua sponte* in certain circumstances. *United States v. Mitchell*, 518 F.3d 740, 750 (10th Cir. 2008). This power is limited and should

not be invoked unless judicial resources and administration are implicated and the delay has been inordinate. *Id.*

Under the circumstances of this case, dismissal of this appeal as untimely is appropriate. Appellant's notice of appeal, filed approximately eleven months after the judgment was entered, is inordinately late. Accordingly, this appeal is dismissed.

A copy of this order shall stand as and for the mandate of the court.

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Lindy Lucero Schaible".

by: Lindy Lucero Schaible
Counsel to the Clerk