

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

June 27, 2016

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EDDIE JOE REZA,

Defendant - Appellant.

No. 16-2096
(D.C. Nos. 1:15-CV-00984-JAP-LAM &
2:10-CR-02135-JAP-1)
(D. N.M.)

ORDER

Before **MATHESON, BACHARACH**, and **PHILLIPS**, Circuit Judges.

We raise *sua sponte* the question of whether this court has jurisdiction to consider this appeal.

In a civil case in which the United States is a party, a notice of appeal must be filed within 60 days of entry of the order being appealed. *See* 28 U.S.C. § 2107(b); Fed. R. App. P. 4(a)(1)(B). This court does not have the discretion to allow an untimely notice of appeal; a timely notice of appeal in a civil case is both mandatory and jurisdictional. *See Bowles v. Russell*, 551 U.S. 205, 214 (2007).

The district court entered final judgment on January 22, 2016. Appellant's May 9, 2016 notice of appeal is beyond Federal Rule of Appellate Procedure's 4(a)(1)(B)'s sixty-day time frame. Appellant's pro se status "does not excuse the obligation . . . to comply with the fundamental requirements of the Federal Rules of . . . Appellate Procedure."

Ogden v. San Juan Cty., 32 F.3d 452, 455 (10th Cir. 1994). Additionally, Appellant did not seek an extension of time in the district court, nor could he obtain one now. *See* Fed. R. App. P. 4(a)(5).

Because the notice of appeal was filed beyond the sixty-day time frame, the court lacks jurisdiction over this appeal.

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