

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

April 6, 2016

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JASON E. FRAZIER,

Defendant - Appellant.

No. 16-3068
(D.C. No. 2:13-CV-02040-KHV)
(D. Kan.)

ORDER

Before **KELLY**, **HARTZ**, and **HOLMES**, Circuit Judges.

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

Judgment was entered on August 19, 2015 and the notice of appeal was filed more than six months later on March 11, 2016.

In a 28 U.S.C. § 2255 proceeding, the notice of appeal must be filed within 60 days of the entry of judgment. *See United States v. Bly*, 328 F.3d 1262, 1263 n.1 (10th Cir. 2003) (the time to appeal in a § 2255 proceeding is determined by the civil rules); 28 U.S.C. § 2107(b) (a notice of appeal in a civil matter where the United States is a party must be filed within 60 days of entry of judgment); Fed. R. App. P. 4(a)(1)(B) (same). 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).

Because the appeal was filed more than 60 days after entry of judgment, this court lacks jurisdiction. **APPEAL DISMISSED.**

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in cursive script, appearing to read "Ellen Rich Reiter".

by: Ellen Rich Reiter
Jurisdictional Attorney