

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 13, 2017

Elisabeth A. Shumaker
Clerk of Court

STELLA DAWN MENDOZA,

Plaintiff - Appellant,

and

MANUEL ANGEL RIVERA,

Plaintiff,

v.

JEFFERSON COUNTY CRIMINAL
COURTHOUSE; JEFFERSON HUMAN
SOCIAL SERVICES; DENVER PUBLIC
SCHOOLS; ADAMS COUNTY PUBLIC
SCHOOLS 50; DENVER COUNTY JAIL;
LAKEWOOD POLICE DEPARTMENT;
ALFRED ARRAJ UNITED STATES
COURTHOUSE; UNITED STATES
MARSHALS SERVICES; COLORADO
DIVISION OF HOMELAND SECURITY
AND MANAGEMENT; WHEATRIDGE
POLICE DEPARTMENT; LINDSEY-
FLANIGAN COURTHOUSE; DENVER
COUNTY COURT BUILDING; ADAMS
COUNTY HUMAN SERVICES;
DENVER HEALTH PARAMEDICS
DIVISION; DENVER COUNTY
SHERIFFS DEPARTMENT; DENVER
POLICE DEPARTMENT; DENVER
HEALTH AND MEDICAL CENTERS;
HSS; TRAVELERS INN, 4765 Federal
Blvd.; VAN CISE-SIMONET
DETENTION CENTER; GREGORY
HILLS PRESCHOOL; HARRIS PARK
ELEMENTARY; DENVER HUMAN
SERVICES; PSYCHIATRY AND

No. 17-1320
(D.C. No. 1:17-CV-00632-LTB)
(D. Colo.)

BEHAVIORAL SCIENCES AT
CHILDREN'S HOSPITAL; COLORADO
STATE CAPITOL; US SOCIAL
SECURITY ADMINISTRATION;
RALPH L. CARR COLORADO
JUDICIAL CENTER; STATE COURT
ADMINISTRATOR; US BANKRUPTCY
COURT; BRUCE CAMPBELL; TENTH
CIRCUIT COURT OF APPEALS; EL
PASO COUNTY COMBINED COURT;
COLORADO SUPREME COURT; U.S.
COURT SERVICES,

Defendants - Appellees.

ORDER

Before **KELLY, McHUGH**, and **MORITZ**, Circuit Judges.

We raise *sua sponte* the question of whether this court has jurisdiction to consider this appeal. Stella Dawn Mendoza seeks to appeal the district court's dismissal of her civil suit against numerous defendants.

The timely filing of a notice of appeal is both mandatory and jurisdictional. *Bowles v. Russell*, 551 U.S. 205, 214 (2007). In a civil case to which a United States agency is a party, the notice of appeal must be filed with the district clerk "within 60 days after entry of the judgment or order appealed from" Fed. R. App. P. 4(a)(1)(B).

In this case, the district court dismissed Ms. Mendoza's complaint and entered judgment on March 15, 2017. Ms. Mendoza filed her notice of appeal more than 60 days later, on September 7, 2017. As a result, Ms. Mendoza's notice of appeal was untimely.

Ms. Mendoza did file two motions for leave to appeal *in forma pauperis* on April 24, 2017, within the time to appeal. A document filed within the time to appeal that gives the notice required by Federal Rule of Appellate Procedure 3 can serve as the functional equivalent of a notice of appeal. *Smith v. Barry*, 502 U.S. 244, 248-49 (1992). However, neither of these *ifp* motions satisfies the requirement of Rule 3(c) that the notice of appeal “designate the judgment, order, or part thereof being appealed;” thus, neither can serve as a notice of appeal.

Because Ms. Mendoza did not timely file her notice of appeal, we lack jurisdiction to consider this appeal.

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro
Counsel to the Clerk