

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 23, 2017

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ENRIQUE MARTINEZ-FLORES, a/k/a
Mario Gomez, a/k/a Ricky Gomez, a/k/a
Ricky Martinez,

Defendant - Appellant.

No. 17-6009
(D.C. No. 5:15-CR-00240-HE-1)
(W.D. Okla.)

ORDER

Before **TYMKOVICH**, Chief Judge, **KELLY** and **LUCERO**, Circuit Judges.

Appellant Enrique Martinez-Flores seeks review of the judgment entered in his criminal case on March 11, 2016. Mr. Martinez-Flores filed his pro se notice of appeal on January 12, 2017.

In a criminal case, a defendant's notice of appeal must be filed in the district court within 14 days after entry of the judgment 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. Mr. Martinez-Flores's notice of appeal, filed approximately ten 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 black ink, appearing to read "Lindy Lucero Schaible", is written over the printed name.

by: Lindy Lucero Schaible
Counsel to the Clerk