

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 31, 2018

Elisabeth A. Shumaker
Clerk of Court

CARL NELSON NILGES,

Plaintiff - Appellant,

v.

AARON GILMOUR, in his individual and
official capacities; DAVID KELSO, in his
individual and official capacities;
GEOFFREY MAISCH, in his individual
and official capacities; DALE
PEMBERTON, in his individual and
official capacities,

Defendants - Appellees.

No. 18-1295
(D.C. No. 1:16-CV-00884-MEH)
(D. Colo.)

ORDER

Before **TYMKOVICH**, Chief Judge, **HARTZ**, and **EID**, Circuit Judges.

This court lacks jurisdiction over this appeal because the notice of appeal was filed late. The notice of appeal was filed more than 30 days after entry of judgment.

Judgment was entered on June 21, 2018, and the notice of appeal was filed on July 24, 2018.

In a civil case, in which the United States is not a party, a notice of appeal must be filed within 30 days of entry of judgment. *See* 28 U.S.C. § 2107(a) (a notice of appeal in a civil matter must be filed within 30 days of entry of judgment); Fed. R. App. P. 4(a)(1)(A) (same). Accordingly, the notice was due on Monday, July 23.

The appellant states in his response to this court's show cause order that his appeal was late because of his medical issues. However, only the district court, not this court, may grant an extension of time in which to appeal. *See* 28 U.S.C. 2107(c); Fed. R. App. P. 26(b)(1).

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 notice of appeal was filed more than 30 days after entry of judgment, this court lacks jurisdiction.

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

by: Ellen Rich Reiter
Jurisdictional Attorney