

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

December 27, 2019

Elisabeth A. Shumaker
Clerk of Court

DEDRICK HARRIS,

Plaintiff - Appellant,

v.

ENVIRONMENTAL MATERIALS LLC,
d/b/a Environmental Stone Works,

Defendant - Appellee.

No. 19-1400
(D.C. No. 1:18-CV-01329-DDD-MEH)
(D. Colo.)

ORDER

Before **PHILLIPS**, **MORITZ**, and **CARSON**, Circuit Judges.

On August 20, 2019, the district court adopted the recommendation of a magistrate judge and entered separate judgment. Appellant Dedrick Harris filed a pro se notice of appeal on October 18, 2019.

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 the judgment or order being appealed. See 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A). A timely notice of appeal in a civil case is both mandatory and jurisdictional. See Bowles v. Russell, 551 U.S. 205, 214 (2007).

In addition, review of the district court docket reflects that Mr. Harris did not file an objection to the magistrate judge's recommendation. Under this court's firm waiver rule, a pro se litigant waives his right to appellate review if he fails to object to a

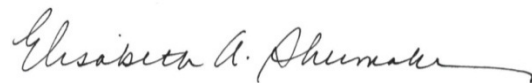
magistrate judge's recommendation unless (1) the litigant was not informed of the period within which to file objections and the consequences for doing so, or (2) the "interests of justice" require review. Morales-Fernandez v. I.N.S., 418 F.3d 1116, 1119 (10th Cir. 2005).

This court directed Mr. Harris to address why the appeal should not be dismissed for lack of jurisdiction as untimely and why he has not waived his right to appellate review by failing to object to the magistrate judge's recommendation. Mr. Harris filed a response that addresses only his failure to object to the magistrate judge's recommendation.

Because the notice of appeal was filed beyond the mandatory 30-day limit, the court lacks jurisdiction over this appeal. Because the court lacks jurisdiction over this appeal, the court will not decide whether Mr. Harris waived his right to appellate review by failing to object to the magistrate judge's recommendation.

APPEAL DISMISSED.

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a horizontal flourish.

ELISABETH A. SHUMAKER, Clerk