

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 15, 2024

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT CHARLTON,

Defendant - Appellant.

No. 24-1281
(D.C. No. 1:21-CR-00416-PAB-1)
(D. Colo.)

ORDER

Before **HARTZ**, **TYMKOVICH**, and **BACHARACH**, Circuit Judges.

This matter comes before the court on the government's *Motion to Dismiss*, Mr. Charlton's response, and the government's reply.

The district court entered final judgment on July 24, 2023. Mr. Charlton then sent the district court a letter, which the district court construed and filed as a notice of appeal on July 1, 2024. Following the opening of the appeal, the government filed its Motion, arguing that the appeal must be dismissed as untimely.

The defendant in a criminal case must file his notice of appeal in the district court within 14 days after entry of judgment. Fed. R. App. P. 4(b)(1). The district court is authorized to extend the time to appeal, but the extension may not exceed 30 days after the time to appeal expires. Fed. R. App. P. 4(b)(4). The time limits set forth in Rules 4(b)(1) and 4(b)(4) are "inflexible claim-processing rule[s]" that the government may forfeit

if it does not properly raise. *United States v. Garduño*, 506 F.3d 1287, 1291 (10th Cir. 2007). If, however, the government properly invokes the time bar, this court must grant relief. *United States v. Mitchell*, 518 F.3d 740, 744 (10th Cir. 2008) (citing *Garduño*, 506 F.3d at 1290-91).

Here, the district court entered its judgment on July 24, 2024. The time to appeal expired fourteen days later, on August 7, 2023. *See* Fed. R. App. P. 4(b)(1)(A)(i). Mr. Charlton did not file his notice of appeal until nearly one year later, on July 1, 2024. Mr. Charlton is similarly now outside of the window in which he can request an extension of time to appeal. Additionally, Mr. Charlton's response to the motion does not provide any grounds to deny the motion. The government has properly invoked the time bar of Rule 4(b) by promptly filing a motion to dismiss this appeal as untimely. Accordingly, the court grants the government's motion and dismisses the appeal. *See Mitchell*, 518 F.3d at 744.

APPEAL DISMISSED.

Entered for the Court

A handwritten signature in black ink, appearing to read 'Christopher M. Wolpert', written over a horizontal line.

CHRISTOPHER M. WOLPERT, Clerk