

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 14, 2026

Christopher M. Wolpert
Clerk of Court

GENE ALLEN,

Petitioner - Appellant,

v.

PEOPLE OF THE STATE OF
COLORADO,

Respondent - Appellee.

No. 26-1003
(D.C. No. 1:09-CV-01350-ZLW)
(D. Colo.)

ORDER

Before **MATHESON, BACHARACH, and PHILLIPS**, Circuit Judges.

Gene Allen, who appears without counsel, filed a notice of appeal in the U.S. District Court for the District of Colorado that identified six cases as the sources of the appeal. One of the district court cases listed is the case identified in the caption above, a § 2254 petition that concluded in 2009. Mr. Allen’s notice of appeal does not identify what district court decision he is appealing, which does not comply with our rules. Fed. R. App. P. 3(c)(1)(B) (notice of appeal must “designate the judgment – or the appealable order – from which the appeal is taken”). Assuming that Mr. Allen is attempting to appeal the 2009 judgment, we *sua sponte* conclude that we lack jurisdiction to consider Mr. Allen’s appeal. *See Amazon, Inc. v. Dirt Camp, Inc.*, 273 F.3d 1271, 1274 (10th Cir.

2001) (“[W]e have an independent duty to examine our own jurisdiction” (citation omitted)).

Mr. Allen already appealed the district court’s 2009 judgment. *Allen v. Colorado*, No. 09-1413, 359 F. App’x 948 (10th Cir. Jan. 11, 2010) (unpublished). Filing a second or subsequent appeal from the same final decision is not permitted by any federal statute or federal procedural rule. 15A Wright, Miller & Cooper, Fed. Prac. & Proc. § 3901 (3d ed. June 2024 Update) (“The right [to appeal], however, is limited to a single appeal from any single appealable order.”); *see also United States v. Mendes*, 912 F.2d 434, 437-38 (10th Cir. 1990) (dismissal of first appeal does not entitle litigant to appeal again later, as “[a]ny other interpretation would undermine the doctrine of finality and lead to endless relitigation of issues previously resolved”) *and Tinner v. Foster*, No. 12-3201, 491 F. App’x 936, 937 (10th Cir. Dec. 5, 2012) (“[t]his novel tactic [of filing a second appeal] is not contemplated by the federal rules”) (unpublished). Since Mr. Allen’s appeal is successive, it is subject to dismissal on this basis.

Even if he could file a second appeal from the 2009 judgment, the appeal is untimely. Judgment was entered July 23, 2009 [Dist. Ct. ECF 12], and Mr. Allen’s motion to reconsider was denied August 7, 2009 [Dist. Ct. ECF 16]. Any notice of appeal was due with 30 days after entry of judgment. 28 U.S.C. § 2107(a); Fed. R. App. P. 4(a)(1)(A). The notice of appeal giving rise to this case was filed January 5, 2026 [Dist. Ct. ECF 33]. Although the appellant is proceeding pro se, he must comply with the same procedural requirements that govern all litigants. *Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008) (“Pro se status ‘does not excuse the obligation of any litigant to

comply with the fundamental requirements of the Federal Rules of Civil and Appellate Procedure.’” (quoting *Ogden v. San Juan County*, 32 F.3d 452, 455 (10th Cir. 1994))). Because the notice of appeal was filed more than 16 years after the deadline expired, it is substantially untimely. To the extent Mr. Allen asks this court in his notice of appeal to find extraordinary circumstances to allow this appeal to continue, we lack authority to grant such relief. *Bowles v. Russell*, 551 U.S. 205, 213-15 (2007).

In light of the above, this court lacks jurisdiction to consider Mr. Allen’s appeal. Therefore, the appeal is dismissed.

Entered for the Court

Per Curiam